

**EXHIBIT 1**

THE STATE OF TEXAS           §  
  §  
COUNTY OF DENTON           §

**SECOND AMENDMENT TO CONTRACT  
BY AND BETWEEN THE CITY OF DENTON, TEXAS  
AND DURABLE SPECIALTIES, INC.  
RFP NO. 5442**

THIS SECOND AMENDMENT TO CONTRACT 5442 (“Amendment”) by and between the City of Denton, Texas (“City”) and Durable Specialties, Inc. (“Supplier”);

The CITY deems it necessary to further expand the goods/services provided by SUPPLIER to the CITY by adding the language shown below to allow other governmental entities to use this contract.

NOW THEREFORE,

1. The contract is amended to read as follows

“This contract will be available for use by **all governmental entities**, providing there is no conflict with any applicable statutes, rules, policies, or procedures. The governmental entities will have the option to use the pricing as agreed to within this contract. Governmental entities will issue their internal purchase orders directly to the contractor(s), however, shall reference and cite the City of Denton Contract Number 5442 within the purchase order document.”

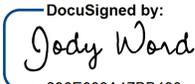
All other provisions of the Contract 5442, as heretofore amended, remain in full force and effect.

IN WITNESS WHEREOF, the CITY and the SUPPLIER, have each executed this Amendment, by and through their respective duly authorized representatives and officers on this the 14 day of April, 2017.

**EXHIBIT 1**

“CITY”

CITY OF DENTON, TEXAS  
A Texas Municipal Corporation

By:  \_\_\_\_\_  
296E603A17BB493...  
JODY WORD  
BUYER

“SUPPLIER”

DURABLE SPECIALTIES, INC.  
A Corporation

By:  \_\_\_\_\_  
A7123D0849E84D7...  
AUTHORIZED SIGNATURE, TITLE

**EXHIBIT 1**

THE STATE OF TEXAS           §  
  §  
COUNTY OF DENTON           §

FIRST AMENDMENT TO CONTRACT  
BY AND BETWEEN THE CITY OF DENTON, TEXAS  
AND DURABLE SPECIALTIES, INC.  
RFP NO. 5442

THIS FIRST AMENDMENT TO CONTRACT 5442 (“Amendment”) by and between the City of Denton, Texas (“City”) and Durable Specialties, Inc. (“Supplier”);

The CITY deems it necessary to further expand the goods/services provided by SUPPLIER to the CITY;

NOW THEREFORE,

1. Exhibit B “Special Terms and Conditions”, **Total Contract Amount** of the Agreement is hereby amended to read as follows:

“Total Contract Amount for services shall not exceed \$4,500,000 per term. Pricing shall be per Exhibit C attached, the contract amount remains the same.

2. Exhibit A “City of Denton Request for Proposal”, of the contract we are wanting to extend this contract for additional six (6) months which will be extended till **October 1, 2017**”

All other provisions of the contract 5442, as heretofore amended, remain in full force and effect.

IN WITNESS WHEREOF, the CITY and the SUPPLIER, have each executed this Amendment, by and through their respective duly authorized representatives and officers on this the \_\_\_\_\_ day of 3/16/2017, 2017.

**EXHIBIT 1**

“CITY”

CITY OF DENTON, TEXAS  
A Texas Municipal Corporation

By: DocuSigned by:  
Elton Brock  
4E9FEBACE935410  
ELTON BROCK  
PURCHASING MANAGER

“SUPPLIER”

DURABLE SPECIALTIES, INC.  
A Corporation

By: DocuSigned by:  
Patrick Bryan  
A7123D0849E84D7 3/16/2017  
AUTHORIZED SIGNATURE, TITLE

**EXHIBIT 1**

**CONTRACT BY AND BETWEEN  
CITY OF DENTON, TEXAS AND DURABLE SPECIALTIES, INC.  
(RFP 5442)**

THIS CONTRACT is made and entered into this 1 day of April, 2014, by and between Durable Specialties, Inc. a corporation, whose address is 2302 Paddock Way Dr., Grand Prairie, TX 75050, hereinafter referred to as "Contractor," and the CITY OF DENTON, TEXAS, a Texas Municipal Corporation and Home-Rule City, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and the subsequent execution of this Contract by the Denton City Manager or his duly authorized designee.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

**SCOPE OF SERVICES**

Contractor shall provide construction services in accordance with the City's RFP # 5442, for Construction of Traffic Intersections, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes as "Exhibit A". The Contract consists of this written agreement and the following items which are attached hereto and incorporated herein by reference:

- (a) City of Denton Request for Proposal #5442 in the office of the Purchasing Manager (Exhibit "A");
- (b) City of Denton Standard Terms and Conditions (Exhibit "B");
- (c) Insurance Requirements (Exhibit "C");
- (d) Payment and Performance Bond (Exhibit "D");
- (e) Contractor's Pricing and Information (Exhibit "F");
- (f) Conflict of Interest (Exhibit "G");

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to this written Contract, and then to the contract documents in the sequential order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

# EXHIBIT 1

EXHIBIT 1

IN WITNESS WHEREOF, the parties of these presents have executed this agreement in the year and day first above written.

“CONTRACTOR”

Durable Specialties, Inc.

ATTEST:

By: Jeffrey C. Bryan  
AUTHORIZED SIGNATURE

By: Melissa Hedgepeth

TYPED NAME: Jeffrey C. Bryan

TITLE: President

972-2910-6324  
PHONE NUMBER

jeff@durablespecialties.com  
E-MAIL ADDRESS



CITY OF DENTON, TEXAS  
A Texas Municipal Corporation

By: George C. Campbell  
GEORGE C. CAMPBELL  
CITY MANAGER

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

By: Jane Richardson, Asst.

APPROVED AS TO LEGAL FORM:  
ANITA BURGESS, CITY ATTORNEY

By: Anita Burgess

**EXHIBIT 1**

**Exhibit "B"**

**CITY OF DENTON GENERAL CONDITIONS FOR BUILDING CONSTRUCTION  
ARTICLE 1 GENERAL PROVISIONS**

**GENERAL DEFINITIONS**

**1.1 The following definitions apply throughout these General Conditions and to the other Contract Documents:**

**a) THE CONTRACT DOCUMENTS**

The Contract Documents consist of the formal Building Construction Services Agreement between the Owner and the Contractor, these General Conditions and other supplementary conditions included by special provisions or addenda, drawings, specifications, addenda issued prior to execution of the Contract, other documents listed in the Contract, and Amendments issued after execution of the Contract. For purposes of these General Conditions, an Amendment is:

- (1) a written Supplemental Agreement to the Contract signed by authorized representatives of both parties;
- (2) a Change Order, including Change Orders signed only by the Owner as described in Subparagraph 7.1(b) and Subparagraph 7.1(e); or
- (3) a written order for a minor change in the Work issued by the Engineer as described in Paragraph 7.3.

The Contract Documents also include bid documents such as the Owner's Instructions to Bidders, sample forms, the Contractor's Bid Proposal and portions of addenda relating to any of these documents, and any other documents, exhibits or attachments specifically enumerated in the Building Construction Services Agreement, but specifically exclude geotechnical and subsurface reports that the Owner may have provided to the Contractor.

**b) THE CONTRACT**

The Contract Documents, as defined in Paragraph 1.1, are expressly incorporated into and made a part of the formal Building Construction Services Agreement between the Owner and the Contractor by reference in this Paragraph and Paragraph 1.1 (which documents are sometimes also referred to collectively in these General Conditions as the "Contract"). The Contract Documents represent the entire and integrated agreement between the Owner and the Contractor and supersede all prior negotiations, representations or agreements, either written or oral. The terms and conditions of the Contract Documents may be changed only by an Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind:

- (1) between the Engineer and Contractor;
- (2) between the Owner and a Subcontractor or Sub-subcontractor; or
- (3) between any persons or entities other than the Owner and Contractor.

The Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of the Engineer's duties.

**EXHIBIT 1****c) THE WORK**

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by the Contractor, or any Subcontractors, Sub-subcontractors, material suppliers, or any other entity for whom the Contractor is responsible, to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

**d) THE PROJECT**

The Project is the total construction more particularly described in the Building Construction Services Agreement, of which the Work performed under the Contract Documents may be the whole or a part of the Project and which may include construction by the Owner or by separate contractors. All references in these General Conditions to or concerning the Work or the site of the Work will use the term "Project," notwithstanding that the Work may only be a part of the Project.

**e) THE DRAWINGS**

The Drawings (also known as the "Plans") are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

**f) THE SPECIFICATIONS**

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, performance of related services, and other technical requirements.

**g) THE PROJECT MANUAL**

The Project Manual is the volume or volumes which contain the bidding requirements, sample forms, General Conditions for Building Construction, special provisions, and Specifications. The Project Manual may be modified by written addendums issued by the Owner during bidding, in which case the written addendums become a part of the Project Manual upon their issuance, unless otherwise indicated by the Owner in writing.

**h) ALTERNATE**

An Alternate is a variation in the Work on which the Owner requires a price separate from the City Building General Conditions Base Bid. If an Alternate is accepted by the Owner, the variation will become a part of the Contract through the execution of a change order or amendment to the Contract and the Base Bid will be adjusted to include the amount quoted. If an alternate is accepted by the Owner, and later deleted prior to any Work under the alternate being performed or materials delivered to the Project site, the Owner will be entitled to a credit in the full value of the alternate as priced in the Contractor's Bid.

**i) BASE BID**

The Base Bid is the price quoted for the Work before Alternates are considered.

**j) HAZARDOUS SUBSTANCE**

The term Hazardous Substance is defined to include the following:

- (1) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophyllite or actinolite, whether friable or non-friable;

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- (2) any polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids;
- (3) radon;
- (4) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste;
- (5) any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;
- (6) any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;
- (7) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and
- (8) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

### k) OTHER DEFINITIONS

As used in the Contract Documents, the following additional terms have the following meanings:

- (1) "provide" means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and other expenses to complete in place, ready for operation or use;
- (2) "shall" means the action of the party to which reference is being made is mandatory;
- (3) "as required" means as prescribed in the Contract Documents; and
- (4) "as necessary" means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes, and regulations.

### 1.2 EXECUTION, CORRELATION AND INTENT

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- (a) The Building Construction Services Agreement shall be signed by duly authorized representatives of the Owner and Contractor as provided in the Agreement.
- (b) Execution of the Building Construction Services Agreement by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions, including but not limited to subsurface conditions, under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.
- (c) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.
- (d) Organization of the Specifications into divisions, sections, and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.
- (e) Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.
- (f) The Drawings and Specifications are intended to agree with one another, and Work called for by Drawings and not mentioned in Specifications, or vice versa, shall be furnished as if set forth by both. Specifications shall govern materials, methods and quality of work. In the event of a conflict on the Drawings between scale and dimension, figured dimensions shall govern over scale dimensions and large scale drawings shall govern over small scale drawings. Conflict between two or more dimensions applying to a common point shall be referred to the Engineer for final adjustment. If discrepancies or conflicts occur within or between the Drawings and Specifications regarding the Work, or within or between other Contract Documents, the Contractor shall not perform such Work without having obtained a clarification from the Engineer and resolution by the Owner. The Owner's decision as to the appropriate resolution of a conflict or discrepancy shall be final. Should the Drawings or the Specifications disagree within themselves or with each other; the Base Bid will be based on the most expensive combination of quality and quantity of Work indicated.
- (g) Deviations from Contract Documents shall be made only after written approval is obtained from Engineer and Owner, as provided in Article 7.
- (h) The intention of the Contract Documents is to include all materials, labor, tools, equipment, utilities, appliances, accessories, services, transportation, and supervision required to completely perform the fabrication, erection and execution of the Work in its final position.
- (i) The most recently issued Drawing or Specification takes precedence over previous issues of the same Drawing or Specification. In the event of a conflict, the order of precedence of interpretation of the Contract Documents is as follows:
  - (1) Amendments (see Paragraph 7.2 for order of precedence between Amendments);
  - (2) the Building Construction Services Agreement;

**EXHIBIT 1**

- (3) addenda, with those addenda of later date having precedence over those of an earlier date;
- (4) the Supplementary General Conditions and Special Provisions, if any;
- (5) the General Conditions for Building Construction;
- (6) the Specifications and Drawings.

**1.3 OWNERSHIP AND USE OF ENGINEER'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

All Drawings, Specifications, and copies thereof furnished by the Engineer are and shall remain the property of the Owner and are, with the exception of the Contract set for each party, to be returned to the Owner upon request at the completion of the Work.

**1.4 CAPITALIZATION**

Terms capitalized in these General Conditions include those which are:

- (1) specifically defined in these General Conditions (except the terms defined in Subparagraph 1.1(j), which terms are of common grammatical usage and are not normally capitalized);
- (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs, and Clauses;
- (3) the titles of other documents published or used by the Owner as manuals or official policy statements; or
- (4) proper nouns or other words required under standard grammatical rules to be capitalized.

**ARTICLE 2 THE OWNER**

**2.1 DEFINITION OF OWNER**

The Owner is the City of Denton, a Texas municipal corporation, and is identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representatives.

**2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

- (a) The Owner shall furnish the most recent survey describing the physical characteristics, legal limits, utility locations, and a permanent benchmark for the site of the Project. The Owner shall also furnish any environmental site assessments that may have been given to the Owner or conducted for the property upon which the Project is to be constructed. THIS INFORMATION IS FURNISHED TO THE CONTRACTOR ONLY IN ORDER TO MAKE DISCLOSURE OF THIS MATERIAL AND FOR NO OTHER PURPOSE. BY FURNISHING THIS MATERIAL, THE OWNER DOES NOT REPRESENT, WARRANT, OR GUARANTEE ITS ACCURACY EITHER IN WHOLE, IN PART, IMPLICITLY OR EXPLICITLY, OR IN ANY OTHER WAY, AND THE OWNER SHALL HAVE NO LIABILITY FOR THIS MATERIAL.
- (b) Except for permits and fees which are provided for in Subparagraph 3.7(a), the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for

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construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

- (c) Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work. It is incumbent upon the Contractor to identify, establish, and maintain a current schedule of latest dates for submittal and approval, as required in Paragraph 3.10, including when such information or services must be delivered. If Owner delivers the information or services to the Contractor as scheduled and Contractor is not prepared to accept or act on such information or services, then Contractor shall reimburse Owner for all extra costs incurred of holding, storage, or retention, including redeliveries by the Owner to comply with the current schedule.
- (d) Unless otherwise provided in the Contract Documents, the Contractor will be furnished electronic copies of the Drawings and Specifications for bid purposes and one hard copy approved by Building Inspections upon execution of the Contract. Contractor may obtain additional copies by paying the cost of additional printing or reproduction.
- (e) The obligations described above are in addition to other duties and responsibilities of the Owner enumerated in the Contract Documents and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).
- (f) The Owner shall forward all instructions to the Contractor through the Engineer, except for the Owner's Notice to Proceed and the Owner's decision to carry out Work as described in Paragraph 2.4.
- (g) The Owner's employees, agents, and consultants may be present at the Project site during performance of the Work to assist the Engineer in the performance of the Engineer's duties and to verify the Contractor's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, the equipment used in the performance of the Work, and for purpose of verification of Contractor's Applications for Payment.

**2.3 OWNER'S RIGHT TO STOP THE WORK**

If the Contractor fails to correct any portion of the Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or refuses or fails to carry out all or any part of the Work in accordance with the Contract Documents, the Owner, by written order, may order the Contractor to stop the Work, or any portion of the Work, until the cause for the order has been eliminated. The right of the Owner however, to stop the Work shall not create or imply a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. The rights of the Owner under this Paragraph 2.3 shall be in addition to, and not in restriction of, the Owner's rights under Paragraph 12.2.

**2.4 OWNER'S RIGHT TO CARRY OUT THE WORK**

If the Contractor fails or refuses to carry out the Work or perform any of the terms, covenants, or obligations of the Contract Documents, and fails or refuses to correct any failure or refusal with diligence and promptness within fourteen (14) days after receipt of notice from the Owner, the Owner may correct the Contractor's failure or refusal or cause such failure or refusal to be corrected, without affecting, superseding, or waiving any other contractual, legal, or equitable remedies the Owner has, including but not limited to the Owner's termination rights under Article 13. In that case, an appropriate Change Order will be issued deducting the Owner's cost of correction, including Engineer's compensation for additional services and expenses made necessary by the failure or refusal of the Contractor from payments then or thereafter due to the Contractor. The cost of correction is subject to verification (but not approval) by the Engineer. If payments then or thereafter

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due the Contractor are not sufficient to cover the cost of correction, the Contractor shall pay the difference to the Owner.

**2.5 NOTICE TO PROCEED**

After final execution of the Contract and receipt and approval of the required performance and payment bonds and evidence of required insurance, the Owner will issue a written notice to proceed with the Work, including the designated Contract Time within which Substantial Completion of the Work must be achieved. If the Owner unreasonably delays issuance of a written notice to proceed through no fault of the Contractor, the Contractor shall be entitled only to an equitable adjustment of the Contract Time, if properly claimed pursuant to the requirements of Paragraph 4.3; but the Contractor shall not be entitled to any increase to the Contract Sum whatsoever for this reason.

**ARTICLE 3 THE CONTRACTOR****3.1 DEFINITION OF CONTRACTOR**

The Contractor is the person or business entity identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized employees or representatives.

**3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR**

(a) The Contractor shall carefully check, study, and compare the Contract Documents with each other and shall at once report to the Engineer in writing any inconsistency, ambiguity, error, omission, conflict, or discrepancy the Contractor may discover. The Contractor shall also verify all dimensions, field measurements, and field conditions before laying out the Work. The Contractor will be held responsible for any subsequent error, omission, conflict, or discrepancy which might have been avoided by the above-described check, study, comparison, and reporting. In the event the Contractor continues to work on an item where an inconsistency, ambiguity, error, omission, conflict, or discrepancy exists without obtaining such clarification or resolution or commences an item of the Work without giving written notice of an error, omission, conflict, or discrepancy that might have been avoided by the check, study, and comparison required above, it shall be deemed that the Contractor bid and intended to execute the more stringent, higher quality, or state of the art requirement, or accepted the condition as is in the Contract Documents, without any increase to the Contract Sum or Contract Time. The Contractor shall also be responsible to correct any failure of component parts to coordinate or fit properly into final position as a result of Contractor's failure to give notice of and obtain a clarification or resolution of any error, omission, conflict, or discrepancy, without any right to any increase to the Contract Sum or Contract Time.

(b) The Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

**3.3 SUPERVISION AND CONSTRUCTION PROCEDURES**

(a) The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents set forth specific instructions concerning these matters.

(b) The Contractor shall be responsible to the Owner for the acts and omissions of the Contractor's employees, Subcontractors, Sub-subcontractors, and their respective agents and employees, and

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any other persons performing portions of the Work under a subcontract with the Contractor or with any Subcontractor, and all other persons or entities for which the Contractor is legally responsible. All labor shall be performed by mechanics that are trained and skilled in their respective trades. Standards of work required throughout shall be of a quality that will bring only first class results. Mechanics whose work is unsatisfactory, or who are considered careless, incompetent, unskilled, or otherwise objectionable shall be dismissed promptly from the Work and immediately replaced with competent, skilled personnel. Any part of the Work adversely affected by the acts or omissions of incompetent, unskilled, careless, or objectionable personnel shall be immediately corrected by the Contractor.

- (c) The Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Engineer in the Engineer's administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Contractor.
- (d) The Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work. The Contractor's responsibility under this paragraph will not in any way eliminate the Engineer's responsibility to the Owner under the Engineer/Owner Agreement.
- (e) Any Contractor, Subcontractor, Sub-subcontractor, or separate contractor who commences Work over, in, or under any surface prepared by the Owner or by any other contractor, subcontractor, sub-subcontractor or separate contractor without the Contractor having given written notice to the Engineer of the existence of any faulty surface or condition in the surface that prevents achieving the quality of workmanship specified by the Contract Documents and without having obtained the prior approval of the Engineer and the Owner to proceed is deemed to have accepted the surface or condition in the surface as satisfactory at the commencement of such Work. Any unsatisfactory Work subsequently resulting from such a faulty surface or condition in the surface that was not pre-approved by the Engineer or the Owner after notice as provided above may be rejected and replacement required, without any increase to the Contract Sum or Contract Time.
- (f) All grades, lines, levels, and benchmarks shall be established and maintained on an ongoing basis by the Contractor. The Contractor is solely responsible for any errors made in establishing or maintaining proper grades, lines, levels, or benchmarks. Each Contractor for his own Work shall verify all grades, lines, levels, and dimensions as indicated on Drawings. He shall report any errors, omissions, conflicts, or inconsistencies to Engineer before commencing any Work affected by these conditions. Contractor shall establish and safeguard benchmarks in at least two widely separated places and, as Work progresses, establish benchmarks at each level and lay out partitions on rough floor in exact locations as guides to all trades. The Contractor shall, from the permanent benchmark provided by the Owner, establish and maintain adequate horizontal and vertical control.

**3.4 LABOR AND MATERIALS**

- (a) Except as is otherwise specifically provided in the Contract Documents as being the responsibility of the Owner, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other

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facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

- (b) The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.
- (c) The Contractor shall give preference, when qualified labor is available to perform the Work to which the employment relates, to all labor hired for the Project in the following order:
  - (1) to bona fide residents of the City of Denton, Texas;
  - (2) to bona fide residents of the County of Denton, Texas;
  - (3) to bona fide residents of the State of Texas;
  - (4) to bona fide residents of the United States.

### 3.5 WARRANTY

- (a) **General Warranty.** The Contractor warrants to the Owner that all Work shall be accomplished in a good and workmanlike manner and that all materials and equipment furnished under the Contract will be of good quality, new (unless otherwise specified), and free from faults or defects, and that the Work will otherwise conform to the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, will be considered defective or nonconforming. The Contractor's warranty excludes any remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The commencement date, duration, and other conditions related to the scope of this general warranty are established in Subparagraphs 9.9 (a) and 12.2(b) of these General Conditions. **THE GENERAL WARRANTY PROVIDED IN THIS SUBPARAGRAPH IS IN ADDITION TO AND DOES NOT LIMIT OR DISCLAIM ANY OTHER WARRANTY OR REMEDY REQUIRED OR PROVIDED BY LAW OR THE CONTRACT DOCUMENTS AND SUCH WARRANTY SHALL REQUIRE THE CONTRACTOR TO REPLACE DEFECTIVE MATERIALS AND RE-EXECUTE DEFECTIVE WORK THAT IS DISCLOSED BY THE OWNER TO THE CONTRACTOR WITHIN A PERIOD OF ONE (1) YEAR AFTER SUBSTANTIAL COMPLETION OF THE ENTIRE WORK OR, IF A LATENT DEFECT, WITHIN ONE (1) YEAR AFTER DISCOVERY BY THE OWNER OF THE LATENT DEFECT.**
- (b) **Special Warranties.** The Contractor shall assign to the Owner in writing, as a condition precedent to final payment, the terms and conditions of all special warranties required under the Contract Documents.

### 3.6 TAXES

The Owner qualifies for exemption from state and local sales and use taxes, pursuant to the provisions of Section 151.309 of the Texas Tax Code, as amended. Therefore, the Owner shall not be liable for, or pay the Contractor's cost of, such sales and use taxes which would otherwise be payable in connection with the purchase of tangible personal property furnished and incorporated into the real property being improved under the Contract Documents or the purchase of materials, supplies and other tangible personal property, other than machinery or equipment and its accessories

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and repair and replacement parts, necessary and essential for performance of the Contract which is to be completely consumed at the job site. The Contractor shall issue an exemption certificate in lieu of the tax on such purchases.

**3.7 PERMITS, FEES AND NOTICES**

- (a) The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of governmental entities or agencies applying to performance of the Work.
- (b) Except as provided in Subparagraph (d) below, it is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, ordinances, construction codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance with applicable laws, ordinances, construction codes, rules or regulations, the Contractor shall promptly notify the Engineer and the Owner in writing, and necessary changes shall be accomplished by appropriate Amendment.
- (c) If the Contractor performs Work knowing it to be contrary to laws, ordinances, construction codes, or rules and regulations without notifying the Engineer and the Owner, the Contractor shall assume full responsibility for the Work and shall bear the attributable costs of the correction of the Work and any other Work in place that may be adversely affected by the corrective work.

**3.8 ALLOWANCES**

- (a) The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for the amounts identified in the Contract and by persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection.
- (b) Unless otherwise provided in the Contract Documents:
  - (1) materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;
  - (2) the amount of each allowance shall cover the cost to the Contractor of materials and equipment delivered at the site less all exempted taxes and applicable trade discounts;
  - (3) the amount of each allowance includes the Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance Work;
  - (4) whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect:
    - (i) the difference between actual costs and the allowances under Clause (b) (2); and
    - (ii) changes in Contractor's costs under Clause (b) (3);
  - (5) the Owner retains the right to review and approve Subcontractors selected by the Contractor to perform work activities covered by allowances.

**3.9 SUPERINTENDENT (PROJECT MANAGER-ONSITE SUPERVISOR)**

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The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Owner reserves the right to request that the Contractor replace its superintendent at any time and the Contractor will replace said superintendent at the Owner's direction.

**3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES**

- (a) The Contractor shall, immediately after award of the Contract and before submittal of the first Application for Payment, prepare and submit the construction schedule for the Engineer's and Owner's information, review, and approval in accordance with the following provisions:
- (1) Unless otherwise approved in writing by the Owner, the construction schedule shall not exceed the Contract Time limits currently in effect under the Contract Documents and shall provide for expeditious and practicable execution of the Work.
  - (2) The construction schedule shall include all shop drawing and submittal data requirements, indicating for each:
    - (i) the latest date to be submitted by the Contractor; and
    - (ii) the latest date for approval by the Engineer.
  - (3) The construction schedule shall be in the form of a critical path management schedule, and shall indicate each critical task (the "predecessor") of all the major construction activities of the Work in a logical and sequential order (the "project network") which requires completion prior to commencement of the task next following (the "successor"). Each task shall be identified with:
    - (i) actual work time, exclusive of slack time, for accomplishment;
    - (ii) the latest start date;
    - (iii) the latest finish date;
    - (iv) the amount of float associated with each task;
    - (v) the amount of labor, material, and equipment associated with each task; and
    - (vi) the percentage of completion as of the date of the current schedule.
  - (4) The construction schedule shall be revised and updated monthly to reflect the actual status of the Work and shall be submitted with each Application for Payment.
  - (5) On or before the first day of each month, following the date of commencement of the Work as stated in the notice to proceed, the Contractor shall prepare and submit to the Engineer and the Owner an up-to-date status report of the progress of the various construction phases of the Work in the form of an updated construction schedule. This status report shall consist of a time scale drawing indicating actual progress of the various phases of the Work and the percentage of completion of the entire Work. The original construction schedule shall be updated or changed to indicate any adjustments to the Contract Time granted by the Owner.

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The updated schedule must be submitted with the Contractor's Application for Payment. No application will be certified without a satisfactory update to the construction schedule.

- (6) The construction schedule will also be revised to show the effect of change orders and other events on Contract Time. No request for an increase in Contract Time will be considered unless it is accompanied by a schedule revision demonstrating the amount of time related to the cause of the request. If the Contractor's status schedules reflect that the Contractor has fallen behind the pace required to complete the Work within the Contract Time, through no fault of the Owner, the Contractor shall prepare a recovery schedule demonstrating how it intends to bring its progress back within the Contract Time. This recovery schedule shall be in a form acceptable to the Owner.
- (7) Costs incurred by the Contractor in preparing and maintaining the required construction schedule, any updated schedule, and any recovery schedule required by the Owner will not be paid as an additional or extra cost and shall be included in the Contract Sum.
- (8) The Contract Sum is deemed to be based upon a construction schedule requiring the full Contract Time. **NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE ALLOWED AS A RESULT OF THE CONTRACTOR BASING HIS BID ON AN EARLY COMPLETION SCHEDULE, OR AS A RESULT OF DELAYS AND COSTS ATTRIBUTABLE TO COMPLETION LATER THAN THE PLANNED EARLY COMPLETION DATE.**
  - (b) The Contractor shall also prepare and keep current, for the Engineer's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Engineer reasonable time to review submittals.
  - (c) The Contractor shall conform to the most recent schedules approved as to form by the Engineer and the Owner. Any subsequent revisions made by the Contractor to schedules in effect shall conform to the provisions of Subparagraph 3.10(a)
  - (d) If the Work falls behind the approved construction schedule, the Contractor shall take such steps as may be necessary to improve his progress, and the Engineer and the Owner may require him to increase the number of shifts, overtime operations, days of work, or the amount of construction plant, and to submit for approval revised schedules in the form required above in order to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Owner.

**3.11 DOCUMENTS AND SAMPLES AT THE PROJECT SITE**

The Contractor shall maintain at the Project site for the Owner one record copy of the Drawings, Specifications, addenda, and Amendments in good order and marked currently to record changes and selections made during construction, and in addition shall maintain at the Project site approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be available to the Engineer and shall be delivered to the Engineer for submittal to the Owner upon completion of the Work.

**3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

- (a) Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

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- (b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- (c) Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.
- (d) Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Engineer is subject to the limitations of Paragraph 4.2.
- (e) The Contractor shall review, approve and submit to the Engineer Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.
- (f) The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Engineer. Work requiring this submittal and review shall be in accordance with approved submittals and any identified exceptions noted by the Engineer.
- (g) By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and related field construction criteria, or will do so, and has checked and coordinated the information contained within submittals with the requirements of the Work and of the Contract Documents. The Contractor's attention is directed to Paragraph 3.2 of these General Conditions and the requirements stated in that Paragraph.
- (h) The Contractor shall not be relieved of responsibility for deviations, substitutions, changes, additions, deletions or omissions from requirements of the Contract Documents by the Engineer's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Contractor has specifically informed the Engineer in writing of such substitutions, changes, additions, deletions, omissions, or deviations involved in the submittal at the time of submittal and the Engineer, subject to a formal Change Order signed by the Owner, Engineer and Contractor, has given written approval to the specific substitutions, changes, additions, deletions, omissions, or deviations. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Engineer's approval thereof. Further, notwithstanding any approval of a submittal by the Engineer, the Contractor shall be responsible for all associated Project costs, including costs of coordination's, modifications, or impacts, direct or indirect, resulting from any and all substitutions, changes, additions, deletions, omissions, or deviations, whether or not specifically identified by the Contractor to the Engineer at the time of the above-mentioned submittals, including additional consulting fees, if any, in any and all accommodations associated with such substitutions, changes, additions, deletions, omissions, or deviations to the requirements of the Contract Documents.
- (i) The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to additional revisions other than those requested by the Engineer on previous submittals. In the absence of such written notice, the Engineer's approval of a resubmission shall not apply to the additional revisions not requested.
- (j) Informational submittals upon which the Engineer is not expected to take responsive action may be so identified in the Contract Documents.

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- (k) When professional certification of performance criteria of materials, systems, or equipment is required by the Contract Documents, the Engineer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

### 3.13 USE OF THE PROJECT SITE

The Contractor shall confine operations at the Project site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the Project site with materials or equipment.

### 3.14 CLEANING UP

- (a) The Contractor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Upon the completion of the Work the Contractor shall remove from and about the Project site all waste materials, and rubbish, and all of the Contractor's tools, construction equipment, machinery, and surplus materials.
- (b) If the Contractor fails to clean up as provided in the Contract Documents, the Owner may clean up and the Owner's cost of cleaning up shall be charged to the Contractor.

### 3.15 ACCESS TO WORK

The Contractor shall provide the Owner and the Engineer access to the Work in preparation and progress wherever located during the course of construction.

### 3.16 TESTS AND INSPECTIONS

- (a) Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of governmental entities or agencies having jurisdiction over the Work shall be made at appropriate times. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner or with the appropriate governmental entity or agency, and the Contractor shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Engineer timely notice of when and where tests and inspections are to be made so the Engineer may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals which become requirements after bids or proposals are received.
- (b) If the Engineer, the Owner or other public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 3.17(a), the Engineer will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Engineer of when and where tests and inspections are to be made so that the Engineer may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 3.17(c).
- (c) If procedures for testing, inspection, or approval under Subparagraphs 3.17(a) and 3.17(b) reveal deficiencies or nonconformities in the Work, the Contractor shall bear all costs made necessary to correct the deficiencies or nonconformities, including those of repeated procedures and compensation for the Engineer's services and expenses, if any. The Contractor shall bear the costs of any subsequent testing, inspection, or approval of the corrected Work.

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- (d) Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

### 3.17 ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. CONTRACTOR SHALL COMPLETELY DEFEND, INDEMNIFY AND HOLD OWNER AND ENGINEER HARMLESS FROM ANY AND ALL SUITS OR CLAIMS FOR INFRINGEMENT OF PATENT RIGHTS, REGARDLESS OF WHETHER OR NOT THE OWNER OR THE ENGINEER SPECIFIED A PARTICULAR DESIGN, PROCESS OR PRODUCT IN THE CONTRACT DOCUMENTS THAT MAY BE THE SUBJECT OF A PATENT INFRINGEMENT OR OTHERWISE ACTIVELY INDUCED OR CONTRIBUTED TO THE INFRINGEMENT. In the event the Contractor has reason to believe that a particular design, process or product specified infringes a patent, the Contractor shall immediately notify the Owner and the Engineer of same.

### 3.18 INDEMNIFICATION

- (a) THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE OWNER, ITS OFFICERS, AGENTS AND EMPLOYEES, AND THE ENGINEER, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, OR OF THE ENGINEER, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF THE CONTRACTOR, THE OWNER, AND THE ENGINEER, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.
- (b) In claims against any person or entity indemnified under this Paragraph 3.19 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.19 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers compensation acts, disability benefit acts or other employee benefit acts.

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- (c) Indemnification under this Paragraph 3.19 shall include, but is not limited to, liability which could result to or be created for the Owner, its officers, agents, or employees, or the Engineer pursuant to State or Federal laws or regulations relating to pollution of the environment and State or Federal laws or regulations relating to the occupational safety and health of workers. The Contractor specifically agrees to comply with the above-mentioned laws and regulations in the performance of the Work by the Contractor and that the obligations of the Owner, its officers, agents, and employees, and the Engineer under the above-mentioned laws and regulations are secondary to those of the Contractor.

**ARTICLE 4 CONTRACT ADMINISTRATION****4.1 THE DESIGN PROFESSIONAL (ENGINEER)**

- (a) The design professional is the person lawfully licensed to practice architecture or engineering or a firm or other business entity lawfully practicing architecture/engineering identified as such in the formal Building Construction Services Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Engineer" means the Engineer or the Engineer's authorized representative. The Owner may, at its option, designate a qualified Owner representative to serve as the Engineer on the Project instead of an outside firm or person. In such event, the references in these General Conditions that refer to the Engineer shall apply to the Owner-designated Engineer representative and the Owner-designated Engineer representative shall be accorded that same status by the Contractor.
- (b) In the event the Engineer is an outside person or firm and the Engineer's employment is terminated, the Owner may, at its option, contract with a new outside Engineer to replace the former, or may designate a qualified Owner representative to serve as the Engineer. The replacement Engineer, whether an Owner representative, an independent Engineer or any other qualified person or entity, shall be regarded as the Engineer for all purposes under the Contract Documents and shall be accorded that same status by the Contractor. Any dispute in connection with such appointment shall be reviewed and settled by the Owner, whose decision shall be final and binding.
- (c) Owner reserves the right to appoint a representative empowered to act for the Owner during the Construction Phase and to supersede the Engineer's Construction Phase responsibility. Similarly, from time to time the Owner may expand or reduce the Owner's delegation of powers to the Engineer, with the Owner notifying the Contractor of any such changes. The Engineer shall not be construed as a third party beneficiary to the Contract and can in no way object to any expansion or reduction of powers as set forth in this Subparagraph (c). In no event, however, shall the Owner have control over charge of, or be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs in connection with the Work since these are solely the Contractor's responsibility. The Owner will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for acts or omissions of Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

**4.2 CLAIMS AND DISPUTES**

- (a) Definition; General Notice of Claim Procedure. As used in these General Conditions, a "Claim" means a demand or assertion by one of the parties to the Contract seeking an adjustment of the terms of the Contract Documents, of the Contract Sum, of the Contract Time, or some other relief in respect to the terms of the Contract Documents. The term also includes all other disputes

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between the Owner and the Contractor arising out of or relating to the Project or the Contract Documents, including but not limited to claims that work was outside the scope of the Contract Documents. The responsibility to substantiate the Claim and the burden of demonstrating compliance with this provision shall rest with the party making the Claim. Except where otherwise provided in the Contract Documents, a Claim by the Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, **MUST BE MADE BY WRITTEN NOTICE TO THE ENGINEER AND THE OWNER WITHIN FOURTEEN (14) DAYS AFTER OCCURRENCE OF THE EVENT OR EVENTS GIVING RISE TO THE PARTICULAR CLAIM.** Every Claim of the Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind the Contractor by his signature) of the Contractor, verifying the truth and accuracy of the Claim. **THE CONTRACTOR SHALL BE DEEMED TO HAVE WAIVED ANY CLAIM NOT MADE STRICTLY IN ACCORDANCE WITH THE PROCEDURE AND TIME LIMITS SET OUT IN THIS PARAGRAPH.**

- (b) Referral to the Engineer. Claims, disputes, and other matters in question between the Contractor and the Owner relating to the progress or execution of the Work or the interpretation of the Contract Documents shall be referred to the Engineer for recommendation to the Owner, which recommendation the Engineer will furnish in writing within a reasonable time, provided proper and adequate substantiation has been received. Failure of the Contractor to submit the Claim to the Engineer for rendering of a recommendation to the Owner shall constitute a waiver of the Claim.
- (c) Continuing Contract Performance. Pending final resolution of a claim the Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make payments in accordance with the Contract Documents.
- (d) Claims for Concealed or Unknown Conditions. No adjustment in the Contract Sum or Time associated with concealed or unknown conditions will normally be considered or allowed; provided, however, that the Contract Sum or Time may be adjusted by the Owner in such circumstances only if:
  - (1) a concealed subsurface condition is encountered in the course of performance of the Work;
  - (2) a concealed or unknown condition in an existing structure is at variance with conditions indicated by the Contract Documents; or
  - (3) an unknown physical condition is encountered below the surface of the ground or in an existing structure which is of an unusual nature and materially different from those ordinarily encountered and generally recognized as inherent in the character of the Work; and
  - (4) a notice of claim with proper and adequate substantiation is presented pursuant to Subparagraph 4.3(a) of these General Conditions; and
  - (5) the Owner and the Engineer determine that:
    - (i) prior to submitting its bid for the Work, the Contractor used reasonable diligence to fully inspect the portion of the Project site where the condition was discovered; and
    - (ii) the work caused or required by the concealed or unknown condition at issue can be considered extra work to the extent that additional new Drawings must be prepared and issued and new construction beyond the scope of the Contract Documents is required.

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- (e) Disclaimer of Warranties as to Reports, Drawings, and Specifications. PROJECT SITE INFORMATION AND REPORTS (INCLUDING BUT NOT LIMITED TO SOILS TESTING REPORTS, GEOTECHNICAL REPORTS, OR ENVIRONMENTAL SITE ASSESSMENTS) PROVIDED BY THE OWNER AND THE ENGINEER IN THE PROJECT MANUAL OR BY OTHER MEANS SHALL BE UTILIZED BY THE CONTRACTOR AT THE CONTRACTOR'S OWN RISK. THE OWNER AND THE ENGINEER DO NOT GUARANTEE OR WARRANT ANY INFORMATION SHOWN IN THE PROJECT SITE INFORMATION AND REPORTS.
- (f) Claims for Additional Cost. If the Contractor wishes to make a claim for an increase in the Contract Sum, written notice as provided in this Paragraph 4.3 shall be given before proceeding to execute the Work. Prior notice is not required for claims relating to an emergency endangering life or property arising under Paragraph 10.3. In addition, the Contractor's request for an increase in the Contract Sum for any reason (other than work performed under emergency conditions) shall be made far enough in advance of required work to allow the Owner and the Engineer a sufficient amount of time, without adversely affecting the construction schedule, to review the request, prepare and distribute such additional documents as may be necessary to obtain suitable estimates or proposals and to negotiate, execute and distribute a Change Order for the required work if the Contractor believes that additional cost is involved for reasons including but not limited to:
- (1) a written interpretation from the Engineer;
  - (2) a written order for a minor change in the Work issued by the Engineer;
  - (3) failure of payment by the Owner;
  - (4) termination of the Contract by the Owner;
  - (5) the Owner's temporary suspension of all or any portion of the Work where the Contractor was not at fault; or
  - (6) other reasonable grounds.
- (g) Injury or Damage to Person or Property. If the Contractor suffers injury or damages to person or property because of an act or omission of the Owner, or of any of the Owner's officers, employees or agents, written, sworn-to notice of any claim for damages or injury shall be given as provided in Subparagraph 4.3(a). The notice shall provide sufficient detail to enable the Engineer and the Owner to investigate the matter.
- (h) Subcontractor Pass-Through Claims. In the event that any Subcontractor of the Contractor asserts a claim to the Contractor that the Contractor seeks to pass through to the Owner under the Contract Documents, any entitlement of the Contractor to submit and assert the claim against the Owner shall be subject to:
- (1) the requirements of Paragraph 4.3 of these General Conditions; and

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- (2) the following additional three requirements listed below, all three of which additional requirements shall be conditions precedent to the entitlement of the Contractor to seek and assert such claim against the Owner:

(ii) The Contractor shall either (A) have direct legal liability as a matter of contract, common law, or statutory law to the Subcontractor for the claim that the Subcontractor is asserting or (B) the Contractor shall have entered into a written liquidating agreement with the Subcontractor, under which agreement the Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such claim against the Owner under the Contract and for paying to the Subcontractor any amount that may be recovered, less Contractor's included markup (subject to the limits in the Contract Documents for any markup). The liability or responsibilities shall be identified in writing by the Contractor to the Owner at the time such claim is submitted to Owner, and a copy of any liquidating agreement shall be included by the Contractor in the claim submittal materials.

(ii) The Contractor shall have reviewed the claim of the Subcontractor prior to its submittal to Owner and shall have independently evaluated such claim in good faith to determine the extent to which the claim is believed in good faith to be valid. The Contractor shall also certify, in writing and under oath to the Owner, at the time of the submittal of such claim, that the Contractor has made a review, evaluation, and determination that the claim is made in good faith and is believed to be valid.

(iii) The Subcontractor making the claim to the Contractor shall certify in writing and under oath that it has compiled, reviewed and evaluated the merits of such claim and that the claim is believed in good faith by the Subcontractor to be valid. A copy of the certification by the Subcontractor shall be included by Contractor in the claim submittal materials.

- (3) Any failure of the Contractor to comply with any of the foregoing requirements and conditions precedent with regard to any such claim shall constitute a waiver of any entitlement to submit or pursue such claim.

- (4) Receipt and review of a claim by the Owner under this Subparagraph shall not be construed as a waiver of any defenses to the claim available to the Owner under the Contract Documents or law.

(i) Owner's Right to Order Acceleration and to Deny Claimed and Appropriate Time Extensions, in Whole or in Part. The Contractor acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner. The following provisions, therefore, will apply:

- (1) If the Contractor falls behind the approved construction schedule for whatever reason, the Owner shall have the right, in the Owner's sole discretion, to order the Contractor to develop a recovery schedule as described in Paragraph 3.10 or to accelerate its progress in such a manner as to achieve Substantial Completion on or before the Contract Time completion date or such other date as the Owner may reasonably direct and, upon receipt, the Contractor shall take all action necessary to comply with the order. In such event, any possible right, if any, of the Contractor to additional compensation for any acceleration shall be subject to the terms of this Subparagraph (i).

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- (2) In the event that the Contractor is otherwise entitled to an extension of Contract Time and has properly initiated a Claim for a time extension in accordance with Subparagraph 4.3(a) above, the Owner shall have the right, in the Owner's sole discretion, to deny all, or any part, of the Claim for extension of Contract Time by giving written notice to the Contractor provided within fourteen (14) days after receipt of the Contractor's Claim. If the Owner denies the Contractor's claim for an extension of Contract Time under this Clause (i)(2), either in whole or in part, the Contractor shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Completion Date.
- (3) If the Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents, for an amount of time that would have justified approval by the Owner if not for the need and right to accelerate, the Contractor may initiate a Claim for acceleration costs pursuant to Subparagraph 4.3(a). Any resulting Claim for acceleration costs properly initiated by the Contractor under Subparagraph 4.3(a) above shall be limited to those reasonable and documented direct costs of labor, materials, equipment, and supervision solely and directly attributable to the actual acceleration activity necessary to bring the Work back within the then existing approved construction schedule. These direct costs include the premium portion of overtime pay, additional crew, shift, or equipment costs if requested in advance by the Contractor and approved in writing by the Owner. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance, not to exceed 5%, will be allowed on the claimed acceleration costs. **NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING BUT NOT LIMITED TO HOME OFFICE OVERHEAD) OR ANY OTHER COSTS WILL BE ALLOWED ON ANY ACCELERATION CLAIM.** The Owner shall not be liable for any costs related to an acceleration claim other than those described in this Clause (i) (3).
- (i) **Waiver of Claims; Final Payment.** The making of final payment shall constitute a waiver of claims by the Owner except those arising from:
- (1) claims, security interests, purported liens, or other attempted encumbrances arising out of the Contract and remaining unsettled;
  - (2) defective or nonconforming Work appearing after Substantial Completion;
  - (3) latent defects, as defined in Subparagraph 12.2(d), appearing after Final Completion; or
  - (4) the terms of general and special warranties required by the Contract Documents or allowed or implied by law.
- (k) **THE CONTRACTOR SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES AS A PART OF ANY CLAIM MADE UNDER THE CONTRACT DOCUMENTS OR IN ANY SUBSEQUENT LAWSUIT OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING.**
- (l) **No Waiver of Governmental Immunity. NOTHING IN THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO WAIVE THE OWNER'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY STATE LAW.**

**EXHIBIT 1****ARTICLE 5 SUBCONTRACTORS****5.1 DEFINITIONS OF SUBCONTRACTOR**

- (a) A Subcontractor is person or entity who has a direct contract with the Contractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Contractor by purchase or lease for use in performance of or incorporation into the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.
- (b) A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Subcontractor or another Sub-subcontractor by purchase or lease for use in performance of or incorporation into the Work. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

**5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

- (a) Immediately after the award of the Contract by the Owner, and before the Building Construction Services Agreement is signed by the Contractor and the Owner, the Contractor shall furnish to the Engineer in writing, for acceptance by the Owner and the Engineer, a list of the names, addresses, telephone numbers, M/WBE certification numbers (where applicable), and type of work of the Subcontractors (including those who are to furnish materials or equipment fabricated to a special design), proposed for the principal portions of the Work, including furnishings when made a part of the Contract. The Contractor shall immediately notify the Owner in writing of any changes in the list as they occur. The Engineer will promptly reply to the Contractor in writing stating whether or not the Owner or the Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Engineer to reply promptly shall constitute notice of no reasonable objection.
- (b) The Contractor shall not contract with a proposed person or entity to whom the Owner or Engineer has made reasonable and timely objection.
- (c) Engineer's and Owner's approval of or objection to any Subcontractor or of a particular process or material will not relieve the Contractor of his responsibility for performance of Work as called for under the Contract Documents, and shall not provide a basis for any claim for additional time or money on the part of the Contractor. Approval shall not be construed to create any contractual relationship between the Subcontractor and either the Owner or Engineer. In no event shall the Contract Sum be increased as a result of the rejection of any Subcontractor.
- (d) The Contractor shall not change a Subcontractor previously selected if the Owner or Engineer makes reasonable objection to such change.

**5.3 SUBCONTRACTUAL RELATIONS**

- (a) By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents (including but not limited to

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these General Conditions), and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by the Contract Documents, assumes toward the Owner and the Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and the Engineer under the Contract Documents (including but not limited to these General Conditions) with respect to the Work to be performed by the Subcontractor so that subcontracting will not prejudice the rights of the Owner and the Engineer. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor is to be bound. Subcontractors shall similarly make copies of applicable portions of such Documents available to their respective proposed Sub-subcontractors.

- (b) The Contractor is solely responsible for making payments properly to the Contractor's Subcontractors on the Project. During performance of the Work, the Contractor shall comply with the following additional rules regarding Subcontractor payments:
- (1) The Contractor shall submit, beginning with the Second Application and Certificate for Payment, a Subcontractor Payment Report (the "Report") with each Application and Certificate for Payment. The Report shall show all payments made to date by the Contractor (plus existing retainage) to each Subcontractor involved in the Project. The Report shall be made on a form approved and supplied by the Owner. As an alternative to the Report, the Contractor may furnish Affidavits of Payment Received with the Application and Certificate for Payment, which affidavits shall be executed by each Subcontractor owed money and paid during the previous progress payment period for work or materials furnished on the Project. RECEIPT BY THE OWNER OF THE REPORT OR AFFIDAVITS OF PAYMENT RECEIVED SHALL BE A CONDITION PRECEDENT TO PAYMENT ON ANY APPLICATION.
  - (2) If, for any reason, the Contractor is withholding payment to a Subcontractor due to a dispute or other problem with performance, the Contractor shall note the amount withheld and that payment is in dispute. The Owner may require the Contractor to document and verify the dispute or other problem in question.
  - (3) The Owner reserves the right in its sole discretion, to withhold payment to the Contractor pursuant to Paragraph 9.5(a) of the General Conditions, should it appear from the Report, statements of payment received or other information furnished to the Owner that:
    - (i) the Report has not been properly completed;
    - (ii) the Contractor has knowingly provided false information regarding payment of any Subcontractor; or
    - (iii) the Contractor has otherwise failed to make payments properly to any Subcontractor.
  - (4) THE CONTRACTOR SHALL NOT HAVE ANY RIGHT TO MAKE A CLAIM FOR ADDITIONAL TIME OR ADDITIONAL COMPENSATION AS A RESULT OF THE OWNER'S OR ENGINEER'S ENFORCEMENT OF THIS SUBPARAGRAPH 5.3(b). NO PROVISION OF THIS SUBPARAGRAPH OR ANY OF THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO CREATE A CONTRACTUAL RELATIONSHIP, EXPRESS OR IMPLIED, BETWEEN ANY SUBCONTRACTOR AND EITHER THE

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OWNER OR THE ENGINEER AND SHALL NOT BE CONSTRUED TO MAKE ANY SUBCONTRACTOR OR ANY OTHER PERSON OR ENTITY A THIRD PARTY BENEFICIARY OF THE CONTRACT BETWEEN THE OWNER AND THE CONTRACTOR.

**5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS**

In the event of a termination of this Contract by the Owner under Article 14, the Contractor shall, if requested in writing by the Owner, within fifteen (15) days after the date notice of termination is sent, deliver and assign to Owner, or any person or entity acting on the Owner's behalf, any or all subcontracts made by Contractor in the performance of the Work, and deliver to the Owner true and correct originals and copies of the subcontract documents. In the event assignment is not requested by the Owner, Contractor shall terminate all subcontracts to the extent that Owner has not directed assignment of same and to the extent that they relate to the performance of Work terminated by the notice of termination.

**ARTICLE 6 CONSTRUCTION BY THE OWNER/ SEPARATE CONTRACTORS****6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS**

- (a) The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project site under Conditions of the Contract identical or substantially similar to these General Conditions, including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make a claim as provided elsewhere in and in accordance with the Contract Documents.
- (b) When separate contracts are awarded for different portions of the Project or other construction or operations on the Project site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Building Construction Services Agreement with the Owner.
- (c) The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall, with the approval of the Owner, make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors, and the Owner until subsequently revised by mutual agreement or by written Change Order. If the Contractor believes it is entitled to an adjustment of the Contract Sum under the circumstances, the Contractor shall submit a written proposal for a Change Order pursuant to Article 7 of the General Conditions. In the event the Contractor's Change Order proposal is denied by the Owner, the Contractor must submit any Claim pursuant to Paragraph 4.3 of the General Conditions.
- (d) Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under these General Conditions, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11 and 12.

**EXHIBIT 1****6.2 MUTUAL RESPONSIBILITY**

- (a) The Contractor shall afford the Owner and separate contractors' reasonable opportunity for access to and storage of their materials and equipment and the performance of their activities and shall coordinate the Contractor's construction and operations with the separate contractors as required by the Contract Documents.
- (b) If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Engineer apparent discrepancies or defects in the other construction that would render it unsuitable for proper execution and results. Failure of the Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.
- (c) The Owner shall not be liable to the Contractor for damages suffered by the Contractor due to the fault or negligence of a separate contractor or through failure of a separate contractor to carry out the directions of the Owner or the Engineer. Should any interference occur between the Contractor and a separate contractor, the Engineer or the Owner may furnish the Contractor with written instructions designating priority of effort or change in methods, whereupon the Contractor shall immediately comply with such direction. In such event, the Contractor shall be entitled to an extension of the Contract Time only for unavoidable delays verified by the Engineer; no increase in the Contract Sum, however, shall be due to the Contractor.
- (d) The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2(e).
- (e) Should the Contractor cause damage to the work or property of any separate contractor on the Project, the Contractor shall, upon due notice, settle with the separate contractor by agreement, if the separate contractor will so settle. If the separate contractor sues the Owner or submits a claim on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor who shall defend such proceedings, at the Contractor's expense, and if any judgment or award against the Owner arises from the separate contractor's claim, the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorney's fees and costs which the Owner has incurred.
- (f) The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Paragraph 3.14.

**6.3 OWNER'S RIGHT TO CLEAN UP**

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the Project site and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Engineer recommends to be just.

**EXHIBIT 1****ARTICLE 7 AMENDMENTS****7.1 CHANGE ORDERS**

- (a) A Change Order is a written order to the Contractor, signed by the Owner and the Engineer, issued after execution of the Contract, authorizing a change in the Work, an adjustment in the Contract Sum, or an adjustment to the Contract Time, consistent with other applicable provisions of this Contract. The Owner, without invalidating the Contract and without requiring notice of any kind to the sureties, may order changes to the scope of Work under the Contract by additions, deletions, or other revisions, the Contract Sum and Contract Time to be adjusted consistent with other applicable provisions of this Contract. All Change Orders shall be executed on a Change Order form approved by the Owner and the Owner's City Attorney.
- (b) In addition to the Owner and the Engineer, the Contractor shall sign all Change Orders to verify and confirm the terms and conditions established by Change Order; however, should the Contractor refuse to sign a Change Order, this shall not relieve him of his obligation to perform the change directed by the Owner and the Engineer to the best of his ability in accordance with the provisions of this Article 7. A Change Order signed by the Contractor indicates his agreement with all of the changes approved, including the adjustment in the Contract Sum or the Contract Time. EACH CHANGE ORDER SHALL BE SPECIFIC AND FINAL AS TO PRICES AND EXTENSIONS OF TIME, WITH NO RESERVATIONS OR OTHER PROVISIONS ALLOWING FOR FUTURE ADDITIONAL MONEY OR TIME AS A RESULT OF THE PARTICULAR CHANGES IDENTIFIED AND FULLY COMPENSATED IN THE CHANGE ORDER. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work. The Contractor forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release applies to claims related to the cumulative impact of all Change Orders and to any claim related to the effect of a change on other Work.
- (c) No extra work (except under emergency conditions) or changes shall be made nor shall any substitutions, changes or additions to or omissions or deviations from the requirements of the Drawings and Specifications be made unless pursuant to a written Change Order signed by the Owner and the Engineer, it being expressly understood that the Owner shall not be liable for the cost of extra work or any substitution, change, addition, omission or deviation from the requirements of the Drawings or Specifications unless the same shall have been authorized in writing by the Owner and the Engineer in a written change order or other Amendment. The provisions of this Paragraph 7.1 shall control in the event of any inconsistency between such provisions and the other provisions of this Article 7. See Subparagraph 10.3(a) of the General Conditions for Change Orders under emergency conditions.
- (d) The method of determining the cost or credit to the Owner for any change in the Work shall be one of the following:
- (1) mutual acceptance of a not-to-exceed lump sum amount properly itemized and supported by sufficient substantiating data to permit evaluation;
  - (2) unit prices stated in the Contract Documents or subsequently agreed upon;

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- (3) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
  - (4) the force account method provided in Subparagraph 7.1(e)
- (e) If the parties cannot agree to one of the methods of calculating cost provided in Clauses (d) (1), (d) (2), or (d) (3), or if the parties agree to a method but cannot agree to a final dollar figure, or if the Contractor for whatever reason refuses to sign the Change Order in question, the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of the Work involved shall then be calculated on the basis of the reasonable jobsite expenditures and savings of those performing the Work attributable to the changes, including a reasonable allowance for overhead and profit, such allowance in any case never to exceed 15%. In such case, the Contractor shall keep an itemized accounting of the Work involved, on a daily basis, in such form and with the appropriate supporting data as the Engineer and Owner may prescribe. Sworn copies of the itemized accounting shall be delivered to the Engineer each day during the performance of force account work, with copies to the Owner.

**FAILURE OF THE CONTRACTOR TO SUBMIT THE SWORN-TO ITEMIZED ACCOUNTING DAILY AS REQUIRED HEREIN SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY RIGHT TO DISPUTE THE OWNER'S DETERMINATION OF THE AMOUNT DUE THE CONTRACTOR FOR FORCE ACCOUNT WORK. Costs to be charged under this Subparagraph for force account work are limited to the following:**

- (1) costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers compensation insurance;
  - (2) costs of materials, supplies and equipment (but not to include off-site storage unless approved in writing by the Owner), whether incorporated or consumed;
  - (3) rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
  - (4) costs of premiums for all bonds and insurance related to the Work; and
  - (5) additional costs of supervision and field office personnel directly attributable to the changed Work. Pending final determination of cost to the Owner, payment of undisputed amounts on force account shall be included on the Engineer's Certificate of Payment as work is completed.
- (f) The amount of credit to be allowed to the Owner for any deletion of Work or any other change which results in a net decrease of the Contract Sum shall be the amount of actual net cost confirmed by the Engineer plus the stated percentage for overhead and profit. When both additions and deletions or credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease with respect to that change.

**7.2 SUPPLEMENTAL AGREEMENTS**

A written Supplemental Agreement can also be used to implement changes in the Work instead of a Change Order form, including but not limited to situations involving partial occupancy of the Work under Paragraph 9.8, a change made to the Drawings or the Specifications without an increase in the

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Contract Sum, or special circumstances where it is necessary or more appropriate for the Owner to use a Supplemental Agreement. Written Supplemental Agreements shall have a status equal to that of Change Orders for purposes of priority of Contract Documents interpretation, except that to the extent of a conflict, later Supplemental Agreements in time control over earlier Supplemental Agreements, and the latest Change Order or Supplemental Agreement in time controls over earlier dated Change Orders and Supplemental Agreements. The rules of Subparagraphs 7.1(b) through (f) shall also apply to the negotiation and execution of Supplemental Agreements.

**7.3 MINOR CHANGES IN THE WORK**

The Engineer, after notifying the Owner, shall be authorized to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Minor changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly. These written orders shall not be deemed to change or impact the Contract Sum or the Contract Time. Contractor shall have no Claim for any minor change ordered to the Work under this Paragraph 7.3 unless the Contractor submits its change proposal, prior to complying with the minor change ordered and in no event later than ten (10) working days from the date the minor change was ordered, to the Owner for approval.

**7.4 TIME REQUIRED TO PROCESS AMENDMENTS**

- (a) All of the Contractor's responses to proposal requests shall be accompanied by a complete, itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow the Owner and the Engineer a minimum of thirty (30) calendar days after receipt by the Engineer to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. All of the Contractor's responses to proposal requests shall include a statement that the cost described in the response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution, or other grounds for seeking extra compensation under the Contract Documents, without reservation or further recourse.
- (b) All Amendments require approval by either the City Council or, where authorized by the state law and City ordinance, by the City Manager pursuant to Administrative Action. The approval process requires a minimum of forty-five (45) calendar days after submission to the Owner in final form with all supporting data. Receipt of a submission by Owner does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal will be authorized by City Council Resolution or Administrative Action. **THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR INCREASE IN THE CONTRACT SUM WILL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS.** Pending the approval described above, the Contractor will proceed with the work under a pending Amendment only if directed in writing by the Owner.

**ARTICLE 8 CONTRACT TIME****8.1 DEFINITIONS**

- (a) Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.
- (b) The date of commencement of the Work is the date established in the notice to proceed from the Owner. The date of commencement shall not be postponed by the failure of the Contractor, or of

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persons or entities for whom the Contractor is responsible to act promptly to commence the Work. If the Owner unreasonably delays the issuance of the notice to proceed through no fault of the Contractor, the Contractor shall be entitled only to an equitable extension of the Contract Time; the Contract Sum shall remain unchanged.

- (c) The date of Substantial Completion is the date certified by the Engineer in accordance with Paragraph 9.7.
- (d) The term "day" as used in the Contract Documents shall mean a calendar day, beginning and ending at 12:00 midnight, unless otherwise specifically defined by special provision.

**8.2 PROGRESS AND COMPLETION**

- (a) Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Building Construction Services Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.
- (b) The Contractor shall not knowingly, except by agreement with or instruction of the Owner in writing, prematurely commence operations on the Project site or elsewhere prior to the effective date of insurance to be furnished by the Contractor as required by Article 11. The date of commencement of the Work shall not be changed by the effective date of insurance required by Article 11.
- (c) **Liquidated Damages.** The Contractor shall proceed expeditiously with adequate forces, materials, and equipment, and shall achieve Substantial Completion within the Contract Time. If the Contractor fails or refuses to complete the Work within the Contract Time as specified in the Bid Proposal form, the Building Construction Services Agreement, or in any proper extension of the Contract Time granted by the Owner, then the Contractor agrees, as a part of the consideration for the awarding of the Contract, to pay to the Owner the amount of liquidated damages (hereinafter called the "Stipulated Amount") as stipulated in the Bid Proposal form and the Building Construction Services Agreement for each calendar day that the Contractor has not Substantially Completed the Work after the expiration of the Contract Time provided. The Stipulated Amount is not to be considered as a penalty, but shall be deemed, taken, or treated as reasonable liquidated damages, fixed and agreed upon by and between the Contractor and the Owner because of the impracticality and extreme difficulty of fixing and ascertaining the actual damages the Owner would sustain in the event of the Contractor's late completion of the Project, and the stipulated amount is agreed to be the daily amount of damages that the Owner would sustain. The Stipulated Amount, as it accrues, will be retained from any portion of the Contract Sum due or that may become due to the Contractor. In the event the portion of the Contract Sum retained by the Owner is insufficient to recover the Stipulated Amount, then the Contractor or the Contractor's Surety shall pay to the Owner any additional liquidated damages due that are in excess of the funds remaining unpaid in the Contract Sum. The Owner shall be the sole judge as to whether or not the Work has been Substantially Completed within the calendar days allotted, which shall include the original Contract Time and any proper extension of the Contract Time granted in writing by the Owner. Should the Contractor dispute the Owner's determination of liquidated damages due, however, or should the Contractor, or the Contractor's agents or assigns, institute any legal action against the Owner to enforce rights under the Contract Documents, then this Subparagraph 8.2(c) shall not be construed to prevent the Owner from seeking full recovery for any and all actual damages suffered by the Owner and attributable to the Contractor, as an alternative to all liquidated damages due.

**EXHIBIT 1****8.3 DELAYS AND EXTENSIONS OF TIME**

- (a) If the Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Engineer, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending a claim, or by other causes which the Engineer determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Engineer and Owner may determine.
- (b) Claims relating to Contract Time and time extensions shall be made in accordance with the applicable provisions of Paragraph 4.3.
- (c) No Damages for Delay. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE CONTRACT DOCUMENTS, INCLUDING THE GENERAL CONDITIONS, NO ADJUSTMENT SHALL BE MADE TO THE CONTRACT SUM AND THE CONTRACTOR SHALL NOT BE ENTITLED TO CLAIM OR RECEIVE ANY ADDITIONAL COMPENSATION AS A RESULT OF OR ARISING OUT OF ANY DELAY, HINDRANCE, DISRUPTION, FORCE MAJEURE, IMPACT, OR INTERFERENCE, INTENTIONAL OR UNINTENTIONAL, FORESEEN OR UNFORESEEN, WHICH INCREASES THE TIME TO COMPLETE THE WORK, INCLUDING BUT NOT LIMITED TO ANY DELAYS CAUSED IN WHOLE OR IN PART BY THE ACTS, OMISSIONS, FAILURES, NEGLIGENCE, OR FAULT OF THE OWNER, THE ENGINEER, OR THE OWNER'S REPRESENTATIVE, AN EXTENSION OF THE CONTRACT TIME UNDER SUBPARAGRAPH 8.3(a) BEING THE CONTRACTOR'S SOLE REMEDY.
- (d) The Owner shall have the right to occupy, without prejudice to the right of either party, any completed or largely completed portions of the structure or Work, notwithstanding the fact that the Contract Time for completing all or a portion of the Work may not have expired. Partial occupancy and use shall not be deemed as an acceptance of the Work taken or used.
- (e) The Contractor shall promptly suspend the Work when either the Contractor or the Owner is ordered to do so by a court order from a court having lawful jurisdiction, and the Contractor will not be entitled to additional compensation by virtue of any delays resulting from the court order. The Contractor will also not be liable to the Owner for a delay caused in fact by the Work being suspended by a court order.
- (f) The Engineer, with the consent of the Owner, shall have the authority to suspend the Work, in whole or in part, for such period or periods as the Engineer deems necessary due to unusual or severe weather conditions as are considered unfavorable for the suitable prosecution of the Work, or due to failure on the part of the Contractor to correct conditions considered unsafe for workmen or the general public. If it should become necessary to stop 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 or become damaged in any way, and shall take every precaution to prevent damage or deterioration of the Work performed. In cases of suspension of the Work under this Subparagraph, the Contractor shall also provide suitable drainage about the Work and erect temporary structures where necessary. The Contractor shall not suspend the Work in whole or in part without written authority from the Engineer or the Owner, and shall resume the Work promptly when notified by the Engineer or the Owner to resume operations.

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- (g) In the event of a delay that is the responsibility of the Contractor or any of the Subcontractors, for which the Contractor is not entitled to a time extension under the provisions of this Contract, the Owner may direct that the Work be accelerated by means of overtime, additional crews or additional shifts, or resequencing. This acceleration shall be at no cost to the Owner and will continue until the Contract Time is restored. In the event of a delay for which the Contractor is entitled to a time extension, as determined by the Engineer, Owner may similarly direct acceleration and the Contractor agrees to perform same on the basis that the Contractor will be reimbursed only to the extent described in Subparagraph 4.3(i). **THE CONTRACTOR EXPRESSLY WAIVES ANY OTHER COMPENSATION RESULTING FROM ACCELERATION, SUCH AS LOSS OF LABOR PRODUCTIVITY OR EFFICIENCY.**

**ARTICLE 9 PAYMENTS AND COMPLETION****9.1 CONTRACT SUM**

The Contract Sum is stated in the Building Construction Services Agreement and, including authorized adjustments, is the total amount of compensation payable by the Owner to the Contractor for the performance of the Work under the Contract Documents.

**9.2 SCHEDULE OF VALUES**

Before the first Application for Payment, the Contractor shall submit to the Engineer a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Engineer may require. This schedule, when approved by the Engineer and the Owner, shall be used as a basis for the Contractor's Application for Payment. The schedule of values shall follow the trade division of the Specifications. Contractor's Application for Payment shall be filed on the current version of AIA Form G702 (Application and Certificate for Payment), as approved by the Owner.

**9.3 APPLICATIONS FOR PAYMENT**

- (a) At least ten (10) days before the date established for each progress payment, the Contractor shall submit to the Engineer an itemized Application for Payment for Work completed in accordance with the schedule of values. The Application shall be notarized, if required, and supported by data substantiating the Contractor's right to payment as the Owner or Engineer may require, including but not limited to copies of requisitions from Subcontractors and material suppliers, and reflecting the applicable retainage as required in the Contract Documents. Contractor's Application for Payment shall also provide other supporting documentation as the Owner or the other applicable provisions of the Contract Documents may require.
- (b) Applications for Payment may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor because of a good faith dispute, unless the Contractor complies with Clause 5.3(b) (2) of these General Conditions and the Contractor's Payment Bond Surety consents in writing to payment to the Contractor of the funds deemed to be in dispute.
- (c) Unless otherwise provided in the Contract Documents, progress payments shall include payment for materials and equipment delivered and suitably stored at the Project site for subsequent incorporation into the Work within thirty (30) days after delivery to the Project site. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored away from the Project site at a location agreed upon in writing. Payment for costs incurred

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in storage of materials or equipment away from the Project site will NOT be made by Owner unless:

- (1) the Owner has given prior approval of such off-site storage in writing;
  - (2) the materials or equipment are stored in a bonded warehouse located in Denton County and identified with the Project for which they are stored, as evidenced by warehouse receipts and appropriate documents of title; and
  - (3) the materials or equipment stored off-site will be incorporated into the Work within thirty (30) days after delivery. STORAGE IN FACILITIES OF THE MANUFACTURER OR THE CONTRACTOR WILL NOT BE PERMITTED OR PAID FOR, UNLESS THE OWNER HAS EXPRESSLY GIVEN PRIOR APPROVAL OF SUCH STORAGE IN WRITING.
- (d) The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.
- (e) All materials or equipment delivered to the Project site earlier than thirty (30) days prior to an approved schedule for delivery to the Project site shall be classified as an "early delivery." All early delivery materials or equipment must have the express written permission of the Owner to be stored on the Project site. If any unauthorized early delivery occurs, Contractor shall, at Contractor's expense or at the expense of the responsible Subcontractor or Supplier, cause such early delivery to be removed from the Project site and stored off-site until required at the Project site. All costs of labor, transportation and storage will be included as part of the expense. If the Contractor fails or refuses to remove unauthorized early delivery materials, the Owner may cause such materials to be removed at the Contractor's sole expense, and amounts may be withheld from the Contractor's Application for Payment to reimburse the Owner for any costs incurred in removing unauthorized early delivery materials. OWNER WILL NOT BE RESPONSIBLE FOR THE PROTECTION OF OR RISK OF LOSS ON ANY EARLY DELIVERY MATERIALS OR EQUIPMENT, NOR WILL OWNER BE LIABLE FOR ANY PAYMENT FOR THE EARLY DELIVERY MATERIALS OR EQUIPMENT. Any materials or equipment classified as early delivery will not be approved for payment as stored materials prior to thirty (30) days before the incorporation of the materials or equipment into the Work, unless storage and payment at an earlier date is expressly approved in writing by the Owner.
- (f) If the Contract Sum is equal to or less than \$25,000.00 and performance and payment bonds are not furnished by the Contractor, no payment applied for will be payable under the Contract until the Work has been Finally Completed and accepted.

**9.4 CERTIFICATES FOR PAYMENT**

- (a) The Engineer will, within ten (10) days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Engineer determines is properly due, or notify the Contractor and Owner in writing of the Engineer's reasons for withholding certification in whole or in part as provided in
- (a) Subparagraph 9.5(a). The Certificate for Payment shall be issued on the current version of AIA Form G702 (Application and Certificate for Payment) as approved by the Owner.

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- (b) The issuance of a Certificate for Payment will constitute a representation by the Engineer to the Owner, based on the Engineer's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Engineer's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial and Final Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Final Completion and to specific qualifications expressed by the Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified, subject to the Owner's approval. The issuance of a Certificate for Payment is not a representation that the Engineer has:
- (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;
  - (2) reviewed construction means, methods, techniques, sequences or procedures;
  - (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or
  - (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.
- (c) Whenever the Application for Payment for Work done since the last previous Application for Payment exceeds one hundred dollars (\$100.00) in amount, Owner will pay a percentage of the Application, less applicable retainage, to the Contractor within thirty (30) days following Owner's receipt and approval of the Certificate for Payment certified by the Engineer. The Application may include acceptable nonperishable materials delivered to the Work or stored as provided for in Paragraph 9.3(c) and the payment will be allowed on the net invoice value, less taxes and applicable retainage.
- (d) The City is required to withhold retainage for public works contracts in which the total contract price estimate at the time of execution is more than \$400,000; however, this requirement is typically applied by the City for all public works contracts in excess of \$50,000. The City may require varying percentage withholding amounts; however, the City typically requires five percent. For retainage percentages in excess of five percent, the City must deposit the retainage into an interest-bearing account and pay the interest earned to the contractor on completion of the contract. The retainage will be withheld by the Owner from each progress payment until final completion of the Work by the Contractor, approval of final completion by the Engineer, and final acceptance of the Work by the Owner. Unless otherwise required by state law, the retainage percentage as specified above is based upon the original Contract Sum, and will not be affected in the event the original Contract Sum is subsequently increased or decreased by Change Order.
- (e) No progress payments shall be made on contracts where performance and payment bonds are not required or furnished. In such instances, payment for the Work performed will be made upon final completion and acceptance by the Owner of all Work.

**9.5 DECISIONS TO WITHHOLD CERTIFICATION**

- (a) The Engineer or the Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner's interest, if

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in the Engineer's or Owner's opinion the representations to the Owner required by Subparagraph 9.4(b) cannot be made. If the Engineer or the Owner is unable to certify payment in the amount of the Application, the Engineer or the Owner will notify the Contractor as provided in Subparagraph 9.4(a). If the Contractor and Engineer or the Owner cannot agree on a revised amount, the Engineer will promptly issue a Certificate for Payment for the amount for which the Engineer is able to make the required representations to the Owner. The Engineer or the Owner may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary, in the Engineer's or Owner's opinion, to protect the Owner from loss because of:

- (1) defective or nonconforming Work not remedied;
  - (2) third party claims filed or reasonable evidence indicating probable filing of such claims;
  - (3) failure of the Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;
  - (4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
  - (5) damage to the Owner or another contractor;
  - (6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - (7) persistent failure to carry out the Work in accordance with the Contract Documents; or
  - (8) mathematical or other errors that are discovered in the Application for Payment.
- (b) When each of the above reasons that existed for withholding certification are removed or remedied, certification will be made for amounts previously withheld.
- (c) The Owner may, at its option, offset any progress payment or final payment under the Contract Documents against any debt (including taxes) lawfully due to the Owner from the Contractor, regardless of whether the amount due arises pursuant to the terms of the Contract Documents or otherwise and regardless of whether or not the debt due to the Owner has been reduced to judgment by a court.

**9.6 PROGRESS PAYMENTS**

- (a) After the Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Engineer. The Owner shall not be liable for interest on any late or delayed progress payment or final payment caused by any claim or dispute, any discrepancy in quantities, any failure to provide supporting documentation or other information required with the Application for Payment or as a precondition to payment under the Contract Documents, or due to any payment the Owner or the Engineer has a right to withhold or not certify under the Contract Documents. Notwithstanding the foregoing, the Owner may refuse to make payment on any Certificate for

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Payment (including, without limitation, the final Certificate for Payment) for any default under the Contract Documents, including but not limited to those defaults set forth in Subparagraph 9.5(a), Clauses (1) through (7). The Owner shall not be deemed in default by reason of withholding payment while any Contractor default remains uncured.

- (b) The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of each Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractors portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.
- (c) The Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Engineer and the Owner on account of portions of the Work done by such Subcontractor.
- (d) Neither the Owner nor the Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law. That obligation belongs to the Contractor or, in the event of the Contractor's failure to pay a Subcontractor, to the Surety on the Payment Bond as required under Paragraph 11.3.
- (e) Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6(b), (c), and (d).
- (f) A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not performed in accordance with the Contract Documents.

**9.7 SUBSTANTIAL COMPLETION**

(a) The Date of Substantial Completion of the Work, or designated portion of the Work, is the date certified by the Engineer when construction is sufficiently completed in accordance with the City Of Denton General Conditions For Building Construction.

- (a) the Contract Documents such that the Owner may beneficially occupy and use the Work, or designated portions of the Work, for the purposes for which it is intended and only trivial and insignificant items remain which do not affect the Work as a whole.
- (b) When the Contractor considers that the Work, or the portion of the Work which the Owner agrees to accept separately, is Substantially Complete, the Contractor shall prepare and submit to the Engineer a comprehensive list of remaining items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list (hereinafter called the "punch list"). Failure to include an item on the punch list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the punch list, the Engineer will make an inspection to determine whether the Work, or designated portion of the Work, is Substantially Complete. If the Engineer's inspection discloses any item, whether or not included on the punch list, which is not in accordance with the requirements of the Contract Documents and which renders the Work inspected not Substantially Complete the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct the item upon notification by the Engineer. The Contractor shall then submit a request for another inspection by the Engineer to determine Substantial Completion. When the

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Work or designated portion of the Work is Substantially Complete, the Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the punch list accompanying the Certificate.

- (c) The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of responsibilities assigned to them in the Certificate.
- (d) Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Engineer, the Owner shall make payment, reflecting adjustment in retainage, if any, for the Work, or portion of the Work, as provided in the Contract Documents.

**9.8 PARTIAL OCCUPANCY OR USE**

- (a) The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate Supplemental Agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.2(e) and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion Substantially Complete, the Contractor shall prepare and submit a list to the Engineer as provided under Subparagraph 9.7(b). Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the
  - (a) progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Engineer.
  - (b) Immediately prior to such partial occupancy or use, the Owner, Contractor, and Engineer shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
  - (c) Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

**9.9 FINAL COMPLETION AND FINAL PAYMENT**

- (a) Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Engineer, accompanied by the Owner's representative, will promptly make final inspection and, when the Engineer finds the Work acceptable under the Contract Documents and the Contract Documents fully performed, the Engineer will promptly issue a final Certificate for Payment stating that to the best of the Engineer's knowledge, information and belief, and on the basis of the Engineer's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Engineer's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.9(b) as a condition precedent to the Contractor's being entitled to final payment have been fulfilled. Owner will normally make

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- final payment within thirty (30) days after Owner's receipt and approval of the final Certificate for Payment. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise provided by separate agreement between the Owner and the Contractor.
- (b) Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Engineer:
- (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
  - (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner;
  - (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
  - (4) a consent of surety to final payment; and
  - (5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.
- (c) As a precondition to final payment by the Owner under this Contract, the Contractor's affidavit under Clause (b)(1) shall state that the Contractor has paid each of his subcontractors, laborers or materialmen in full for all labor and materials provided to him for the Work under this Contract. In the event the Contractor has not paid each of his subcontractors, laborers or materialmen in full, the Contractor shall state in the affidavit the amount owed and the name of each subcontractor, laborer or materialmen to whom such payment is owed. **IN ANY EVENT, THE CONTRACTOR SHALL BE REQUIRED TO EXECUTE THE OWNER'S STANDARD AFFIDAVIT OF FINAL PAYMENT AND RELEASE AS A PRECONDITION TO RECEIPT OF FINAL PAYMENT.**
- (d) If, after Substantial Completion of the Work, final completion of the Work is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion and the Engineer confirms the delay, the Owner shall, upon application by the Contractor and certification by the Engineer, 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 for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Engineer prior to certification of payment. Payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.
- (e) The acceptance by the Contractor of the final payment shall operate as and shall be a complete release of the Owner from all claims or liabilities under the Contract, for anything done or furnished or relating to the Work or the Project, or for any act or neglect of the Owner relating to or connected with the Work or the Project.

**ARTICLE 10 SAFETY, SECURITY AND UTILITY PROVISIONS; ENVIRONMENTAL COMPLIANCE**

**EXHIBIT 1****10.1 SAFETY PRECAUTIONS AND PROGRAMS**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract, and will comply with all applicable City, County, State and Federal health and safety regulations.

**10.2 SAFETY OF PERSONS AND PROPERTY**

- (a) The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:
- (1) employees on the Work and other persons who may be affected thereby;
  - (2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
  - (3) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- (b) The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- (c) The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.
- (d) **USE OF EXPLOSIVES IS PROHIBITED - CLAIMS AND TOTAL INDEMNIFICATION.** The Owner shall have the right to pre-approve the use of any explosives on the Project; the Contractor shall not assume in its bid that permission to use explosives will be granted. The Owner shall NOT be liable for any claim for additional time or compensation as a result of the Owner's denial of permission to use explosives. Where use of explosives is permitted by the Owner, the Contractor EXPRESSLY AGREES TO BE SOLELY RESPONSIBLE for the determination as to whether explosives shall actually be used, and for any result from the use, handling or storage of explosives, and shall INDEMNIFY, DEFEND AND HOLD COMPLETELY HARMLESS the Owner, its officers, agents and employees, and the Engineer against any and all claims, lawsuits, judgments, costs or expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, as the result of the use, handling or storage of the explosives by the Contractor or any Subcontractor, REGARDLESS OF WHETHER SAID USE, HANDLING OR STORAGE WAS NEGLIGENT OR NOT, AND REGARDLESS OF WHETHER THE DAMAGE OR INJURY WAS CONTRIBUTED TO IN ANY WAY BY THE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES, OR THE ENGINEER AND ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES. In the event of conflict with any other indemnity paragraph in this Contract, this paragraph controls. This indemnity paragraph is intended solely for the benefit of the parties to this Contract and is not intended to create or grant any rights, contractual or otherwise, to or for any other person or entity. The Contractor shall furnish the Owner and the Engineer with evidence of insurance sufficient to cover possible damage or injury, which insurance shall either include the

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Owner and the Engineer as additional insureds or be sufficiently broad in coverage as to fully protect the Owner and the Engineer.

- (e) The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2(a)(2) and 10.2(a)(3) caused in whole or in part by the Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2(a)(2) and 10.2(a)(3), except damage or loss attributable to acts or omissions of the Owner or Engineer or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor or any of its Subcontractors. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.19. To the extent that any such damage or loss may be covered by property insurance or other insurance required by the Contract Documents, the Owner and the Contractor shall exercise their best efforts to make a claim and obtain recovery from the insurers to provide for the cost, in whole or in part, of the repair work or to provide for reimbursement for such damage or loss.
- (f) The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Engineer.
- (g) The Contractor shall not load or permit any part of the Work or the Project site to be loaded so as to endanger its safety.

**10.3 EMERGENCIES**

In an emergency affecting safety, health, or security of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

**10.4 PUBLIC CONVENIENCE AND SAFETY**

- (a) The Contractor shall place materials stored about the Work and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by the Owner. Sidewalks or streets shall not be obstructed, except by special permission of the Owner. The materials excavated and the construction materials or plant used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances, and fire alarm or police call boxes in the vicinity.
- (b) The Owner reserves the right to remedy any neglect on the part of the Contractor in regard to public convenience and safety which may come to the Owner's attention, after twenty-four (24) hours notice in writing to the Contractor. In case of an emergency, the Owner shall have the right to immediately remedy any neglect without notice. In either case, the cost of any work done by the Owner to remedy the Contractor's neglect shall be deducted from the Contract Sum. The Contractor shall notify the City Traffic Control Department when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be forty-eight (48) hours in advance. The Owner reserves the right to

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postpone or prohibit any closure or obstruction of any streets or thoroughfares to the extent necessary for the safety and benefit of the traveling public. The Contractor shall, when directed by the Engineer or the Owner, keep any street or streets in condition for unobstructed use by City departments. When the Contractor is required to construct temporary bridges or make other arrangements for crossing over ditches or around structures, the Contractor's responsibility for accidents shall include the roadway approaches as well as the crossing structures.

### **10.5 BARRICADES, LIGHTS AND WATCHMEN**

If the Work is carried on or adjacent to any street, alley or public place, the Contractor shall, at the Contractor's own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, shall provide sufficient watchmen, and shall take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that will be visible at night, shall indicate in bold letters thereon the Contractor's name and shall be illuminated by lights from sunset to sunrise. The term "lights," as used in this Paragraph, shall mean flares, flashers, or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices shall also be erected to keep vehicles from being driven on or into any Work under construction. The Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights and watchmen to protect the Work. Whenever evidence is found of such damage, the Engineer may order the damaged portion immediately removed and replaced by the Contractor at Contractor's cost and expense. The Contractor's responsibility for maintenance of barricades, signs, and lights, and for providing watchmen, shall not cease until the Project has been finally accepted by the Owner.

### **10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED**

In case it is necessary to change or move the property of the Owner or of any telecommunications or public utility, such property shall not be removed or interfered with until ordered to do so by the Engineer. The right is reserved to the owner of any public or private utilities to enter upon the Project site for the purpose of making such changes or repairs of their property that may become necessary during the performance of the Work. The Owner reserves the right of entry upon the Project site for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures, and for making other repairs, changes, or extensions to any of the Owner's property. The Owner's actions shall conform to the Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to the Owner by the Contractor.

### **10.7 ARRANGEMENT AND CHARGE FOR WATER FURNISHED BY THE OWNER; ELECTRICITY FOR THE PROJECT**

(a) Traffic Department will supply contractor with Electricity through coordination with DME.

### **10.8 USE OF FIRE HYDRANTS**

The Contractor, Subcontractors, and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve, or stop cock, or tap any water main belonging to the Owner, unless duly authorized to do so by the Denton Water Utilities Department in accordance with the Denton City Code.

### **10.9 ENVIRONMENTAL COMPLIANCE**

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- (a) The Contractor and its Subcontractors are deemed to have made themselves familiar with and at all times shall comply with all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project.
- (b) In the event the Contractor encounters on the site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and removal of such materials is not a part of the scope of Work required under the Contract Documents, the Contractor shall immediately stop Work in the affected area and report in writing the facts of such encounter to the Engineer and the Owner. Work in the affected area shall not thereafter be resumed except by written order of the Owner unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. The Owner may choose to remediate the Hazardous Substance with a separate contractor or through a Change Order with the Contractor. If the Owner determines that the Hazardous Substance exists in the affected area due to the fault or negligence of the Contractor or any of its Subcontractors, the Contractor shall be responsible for remediating the condition at the sole expense of the Contractor in accordance with the Contractor's APPROVED Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by the Owner only if all remaining Work on the Project must be suspended and the delay cannot be made up elsewhere in the progress schedule. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of Paragraph 4.3 and Article 8.
- (c) The Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation, and disposal of any Hazardous Substance brought into or upon the site by the Contractor or any Subcontractor or Supplier. The Contractor shall obtain any and all permits necessary for the legal and proper handling, transportation, and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation, and disposal, notify the Owner and the Engineer so that they may observe the activities; provided, however, that it shall be the Contractor's sole responsibility to comply with all applicable laws, rules, regulations, or ordinances governing the activities.
- (d) The Contractor shall deposit surplus or waste excavation or other materials removed as part of the Work at a legal disposal site in accordance with all applicable state, federal, and local laws, rules, regulations, and ordinances. The Contractor shall submit to the Owner for review and approval all planned disposal sites or proposed uses for the surplus or waste excavation or other materials prior to removal of any excavation or other material from the Project site. A copy of all transport manifests for surplus or waste excavation or other materials shall be obtained and retained in the Contractor's records for reference purposes, to be provided upon

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request to the Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter.

- (e) The Contractor shall not install any materials in the performance of the Work that contain asbestos or asbestos-related material such as hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophyllite or actinolite, whether friable or non-friable.
- (f) The Owner reserves the right in its sole option to exercise the following remedies (without waiving the right to pursue the imposition of any civil or criminal fines or penalties that may be imposed under state, federal, or local laws or ordinances), at no additional cost to the Owner and without an extension of the Contract Time, in the event the Contractor fails or refuses after seven (7) days advance written notice from the Owner to comply with the provisions of this Paragraph 10.10, the terms of the SPRP, the terms of the Clean Air Management Plan, any storm water permit or other environmental permit issued in connection with the Work, or any applicable environmental law, rule, regulation, or ordinance:
  - (1) suspend all or any portion of the Work until the noncompliance is corrected, or until a detailed plan to achieve compliance within a reasonably prompt period of time is prepared by the Contractor and approved by the Owner;
  - (2) if the Contractor fails to properly address the noncompliance within the time stipulated by the Owner, perform the necessary remediation or correction work and backcharge the Contractor for the cost of the remediation or correction; or
  - (3) terminate the Contract for cause as provided in Article 13.

**ARTICLE 11 INSURANCE AND BONDS**

**11.1 CONTRACTOR'S INSURANCE**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

**11.2 PROPERTY INSURANCE**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

**11.3 'UMBRELLA' LIABILITY INSURANCE**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

**11.4 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

**11.6 PERFORMANCE AND PAYMENT BONDS**

- (a) Subject to the provisions of Subparagraph 11.3(b), the Contractor shall, with the execution and delivery of the Construction Services Agreement, furnish and file with the Owner in the amounts required in this Paragraph, the surety bonds described in Clauses (a)(1) and (a)(2) below, which surety bonds shall be in accordance with the Charter of the City of Denton and the provisions of Chapter 2253, Texas Government Code, as amended; each bond shall be signed by the Contractor, as Principal, and by an established bonding company, as surety, meeting the requirements of Subparagraph 11.3(c) and approved by the Owner. The surety bonds shall be

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accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign:

- (1) **Performance Bond.** A good and sufficient bond in an amount equal to 100% of the total Contract Sum, guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any Amendments thereof, for the protection of the Owner. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of two (2) year from the date of final completion and acceptance of the improvements by the Owner or lesser or longer periods as may be otherwise designated in the Contract Documents.
  - (2) **Payment Bond.** A good and sufficient bond in an amount equal to 100% of the total Contract Sum, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract Documents and any Amendments thereto, and for the use and protection of each claimant.
- (b) If the Contract Sum, including Owner-accepted alternates and allowances, if any, is greater than \$100,000, Performance in 100% of the Contract Sum are mandatory and shall be provided by the Contractor. If the Contract Sum is greater than \$50,000 but less than or equal to \$100,000, only a Payment Bond in 100% of the Contract amount is mandatory; provided, however, that the Contractor may elect to furnish a Performance Bond in the same amount if the Contractor so chooses. If the Contract Sum is less than or equal to \$25,000, the Contractor may elect not to provide Performance and Payment Bonds; provided that in such event, no money will be paid to the Contractor until final completion and acceptance of all work by Owner. If the Contractor elects to provide Performance and Payment Bonds 100% of the total Contract Sum, progress payments in accordance with these General Conditions shall be disbursed.
- (c) No surety will be accepted by the Owner who is now in default or delinquent on any bonds or who is a party to any litigation against the Owner. All bonds shall be made and executed on the Owner's standard forms, shall be approved by the Owner, and shall be executed by not less than one corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties, and is otherwise acceptable to the Owner. Each bond shall be executed by the Contractor and the surety, and shall specify that legal venue for enforcement of each bond shall lie exclusively in Denton County, Texas. Each surety shall designate an agent resident in Denton County, Texas to whom any requisite statutory notices may be delivered and on whom service of process may be had in matters arising out of the suretyship.
- (d) The person or persons, partnership, company, firm, Limited Liability Company, association, corporation, or other business entity to whom the Contract is awarded shall, within ten (10) days after such award, sign the required Contract with the Owner and provide the necessary surety bonds and evidence of insurance as required under the Contract Documents. No Contract shall be binding on the Owner until it has been approved as to form by the City Attorney, executed for the Owner by the City Manager, the performance and payment bonds and evidence of insurance have been furnished as required by the Contract Documents, and the fully executed contract has been delivered to the Contractor.

**EXHIBIT 1**

- (e) The failure of the Contractor to execute the Contract or deliver the required statutory bonds and evidence of insurance within ten (10) days after the Contract is awarded or as soon thereafter as the Owner can assemble and deliver the Contract shall constitute a material breach of the Contractor's bid proposal and the Owner may rescind the Contract award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices or materials and labor, and it being impracticable and difficult to determine accurately the amount of damages occurring to the Owner by reason of the Contractor's failure to execute and furnish the statutory bonds and to sign the Contract within ten (10) days, the filing of a bid proposal with the accompanying bid security will be considered as an acceptance of this Subparagraph 11.3(e). In the event the Owner should re-advertise for bids, the defaulting Contractor shall not be eligible to bid, and the lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this Paragraph.

**ARTICLE 12 DEFECTIVE AND NONCONFORMING WORK****12.1 UNCOVERING OF WORK**

- (a) If a portion of the Work is covered contrary to the Engineer's request or to requirements specifically expressed in the Contract Documents, the Work must, if required in writing by the Engineer, be uncovered for the Engineer's observation and be replaced at the Contractor's expense without change in the Contract Time.
- (b) If a portion of the Work has been covered which the Engineer has not specifically requested to observe prior to it being covered, the Engineer may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If any Work is not in accordance with the Contract Documents, the Contractor shall pay the costs of uncovering, repair, replacement unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

**12.2 CORRECTION OF WORK**

- (a) The Contractor shall promptly correct Work rejected by the Engineer as failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Engineer's services and expenses made necessary thereby.
- (b) If any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Engineer or the Owner to do so unless the Owner has previously given the Contractor a written acceptance or waiver of the defect or nonconformity. The Contractor's obligation to correct defective or nonconforming Work remains in effect for:
- (1) one year after the date of Substantial Completion of the Work or designated portion of the Work;
  - (2) one year after the date for commencement of warranties established by agreement in connection with partial occupancy under Subparagraph 9.8(a); or

**EXHIBIT 1**

- (3) the stipulated duration of any applicable special warranty required by the Contract Documents.
- (c) The one-year period described in Clauses (b)(1) and (b)(2) shall be extended with respect to portions of the Work performed, repaired, or corrected after Substantial Completion by the period of time between Substantial Completion and the actual completion of the Work.
- (d) The obligations of the Contractor under this Paragraph 12.2 shall survive final acceptance of the Work and termination of this Contract. The Owner shall give notice to the Contractor promptly after discovery of a defective or nonconforming condition in the Work. The one-year period stated in Clauses (b)(1) and (b)(2) does not limit the ability of the Owner to require the Contractor to correct latent defects or nonconformities in the Work, which defects or nonconformities could not have been discovered through reasonable diligence by the Owner or the Engineer at the time the Work was performed or at the time of inspection for certification of Substantial Completion or Final Completion. The one year period also does not relieve the Contractor from liability for any defects or deficiencies in the Work that may be discovered after the expiration of the one year correction period.
- (e) The Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- (f) If the Contractor fails to correct defective or nonconforming Work within a reasonable time after notice from the Owner or the Engineer, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of defective or nonconforming Work within a reasonable time fixed by written notice from the Engineer, the Owner may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of removal and storage within ten days after written notice, the Owner may, upon ten (10) additional days written notice, sell the materials and equipment at auction or at private sale and shall account for the proceeds after deducting costs and damages that should have been borne by the Contractor, including compensation for the Engineer's services and expenses made necessary as a result of the sale. If the proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to the Contractor then or thereafter are not sufficient to cover the deficiency, the Contractor shall pay the difference to the Owner.
- (g) The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether the construction is completed or partially completed, that is caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.
- (h) Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the one-year time period as described in Subparagraph 12.2(b) relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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- (i) Any Work repaired or replaced pursuant to this Article 12 shall be subject to the provisions of Article 12 to the same extent as Work originally performed or installed.

### 12.3 ACCEPTANCE OF NONCONFORMING WORK

The Owner may, in the Owner's sole discretion, accept Work which is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. The adjustment will be accomplished whether or not final payment has been made.

## ARTICLE 13 COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION

### 13.1 FINAL COMPLETION OF CONTRACT

The Contract will be considered completed, except as provided in any warranty or maintenance stipulations, bond, or by law, when all the Work has been finally completed, the final inspection is made by the Engineer, and final acceptance and final payment is made by the Owner.

### 13.2 WARRANTY FULFILLMENT

Prior to the expiration of the specified warranty period provided for in the Contract Documents, the Engineer will make a detailed inspection of the Work and will advise the Contractor and the Contractor's Surety of the items that require correction. The Engineer will make a subsequent inspection and if the corrections have been properly performed, the Engineer will issue a letter of release on the maintenance stipulations to the Contractor and the Surety. If for any reason the Contractor has not made the required corrections before the expiration of the warranty period, the warranty provisions as provided for in the Contract Documents shall remain in effect until the corrections have been properly performed and a letter of release issued.

### 13.3 TERMINATION BY THE OWNER FOR CAUSE

- (a) Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by the Owner for any good cause after giving seven (7) days advance written notice and opportunity to cure to the Contractor, including but not limited to the following causes:
  - (1) Failure or refusal of the Contractor to start the Work within ten (10) days after the date of written notice by the Owner to commence the Work.
  - (2) A reasonable belief that the progress of the Work being made by the Contractor is insufficient to complete the Work within the specified time.
  - (3) Failure or refusal of the Contractor to provide sufficient and proper equipment or construction forces to properly execute the Work in a timely manner.
  - (4) A reasonable belief that the Contractor has abandoned the Work.
  - (5) A reasonable belief that the Contractor has become insolvent, bankrupt, or otherwise financially unable to carry on the Work.

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- (6) Failure or refusal on the part of the Contractor to observe any requirements of the Contract Documents or to comply with any written orders given by the Engineer or the Owner as provided for in the Contract Documents.
  - (7) Failure or refusal of the Contractor to promptly make good any defects in materials or workmanship, or any defects of any nature, the correction of which has been directed in writing by the Engineer.
  - (8) A reasonable belief by the Owner that collusion exists or has occurred for the purpose of illegally procuring the Contract or a Subcontractor, or that a fraud is being perpetrated on the Owner in connection with the construction of Work under the Contract.
  - (9) Repeated and flagrant violation of safe working procedures.
  - (10) The filing by the Contractor of litigation against the Owner prior to completion of the Work.
- (b) When the Work or any portion of the Work is terminated for any of the causes itemized above or for any other cause except termination for convenience pursuant to Subparagraph 13.3(e), the Contractor shall, as of the date specified by the Owner, discontinue the Work or portion of the Work as the Owner shall designate, whereupon the surety shall, within fifteen (15) days after the written notice of termination for cause has been served upon the Contractor and the surety or its authorized agents, assume the obligations of the Contractor for the Work or that portion of the Work which the Owner has ordered the Contractor to discontinue and may:
- (1) perform the Work with forces employed by the surety;
  - (2) with the written consent of the Owner, tender a replacement contractor to take over and perform the Work, in which event the surety shall be responsible for and pay the amount of any costs required to be incurred for the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or
  - (3) with the written consent of the Owner, tender and pay to the Owner in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming Work, and compensate the Owner for any other loss sustained as a result of Contractor's default.

In the event of termination for cause involving Clause (b)(1) or (b)(2), the Surety shall assume the Contractor's place in all respects, and the amount of funds remaining unpaid under the Contract shall be paid by the Owner for all Work performed by the surety or the replacement contractor in accordance with the terms of the Contract Documents, subject to any rights of the Owner to deduct any costs, damages, or liquidated or actual damages that the Owner may have incurred, including but not limited to additional fees and expenses of the Engineer and attorneys fees, as a result of such termination.

- (c) The balance of the Contract Sum remaining at the time of the Contractor's default and of the termination shall become due and payable to the surety as the Work progresses, subject to all of the terms, covenants, and conditions of the Contract Documents. If the surety does not, within the time specified in Subparagraph 13.3(b), exercise its obligation to assume the obligations of the Contract, or that portion of the Contract which the Owner has ordered the

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Contractor to discontinue, then the Owner shall have the power to complete the Work by contract or otherwise, as it may deem necessary. The Contractor agrees that the Owner shall have the right to take possession of or use any or all of the materials, plant, tools, equipment, supplies, and property of every kind provided by the Contractor for the purpose of the Work, and to procure other tools, equipment, labor, and materials for the completion of the Work, and to charge to the account of the Contractor the expenses of completion and labor, materials, tools, equipment, and incidental expenses. The expenses incurred by the Owner to complete the Work shall be deducted by the Owner out of the balance of the Contract Sum remaining unpaid to or unearned by the Contractor. The Contractor and the surety shall be liable to the Owner for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other costs, damages, expenses (including but not limited to additional fees of the Engineer and attorney's fees), and liquidated or actual damages incurred as a result of the termination.

- (d) The Owner shall not be required to obtain the lowest bid for the Work of completing the Contract as described in Subparagraph 13.3(c), but the expenses to be deducted from the Contract Sum shall be the actual cost of such Work. In case the Owner's expense is less than the sum which would have been payable under the Contract, if the same had been completed by the Contractor, then the Owner may pay to the Contractor (or the Surety, in the event of a complete termination for cause) the difference in the cost, provided that the Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such expenses for completion shall exceed the amount which would have been payable under the Contract if the same had been completed by the Contractor, then the Contractor and his Sureties shall pay the amount of the excess to the Owner on notice from the Owner for excess due. When only a particular part of the Work is being carried on by the Owner by contract or otherwise under the provisions of this Subparagraph, the Contractor shall continue the remainder of the Work in conformity with the terms of the Contract, and in such manner as not to hinder or interfere with the performance of workmen employed and provided by the Owner.
- (e) The right to terminate this Contract for the convenience of the Owner (including but not limited to nonappropriation of funding) is expressly retained by the Owner. In the event of termination for convenience, the Owner shall deliver at least ten (10) days advance written notice of termination for convenience to the Contractor. Upon the Contractor's receipt of such written notice, the Contractor shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work in place. The Contractor shall then be reimbursed by the Owner in accordance with the terms and provisions of the Contract Documents, not to exceed actual labor costs incurred, materials stored at the Project site or away from the Project site as approved by the Owner but not yet paid for, plus actual, reasonable, and documented termination charges, if any, paid by the Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents to the date of termination for convenience. No amount shall ever be due to the Contractor for lost or anticipated profits.

**13.4 TEMPORARY SUSPENSION OF THE WORK**

- (a) The Work or any portion of the Work may be temporarily suspended by the Owner immediately upon written notice to the Contractor for any reason, including but not limited to:
  - (1) the causes described in Clauses 13.1(a)(1) through (a)(10) above;

## EXHIBIT 1

- (2) where other provisions in the Contract Documents require or permit temporary suspension of the Work;
  - (3) situations where the Work is threatened by, contributes to, or causes an immediate threat to public health, safety, or security; or
  - (4) other unforeseen conditions or circumstances.
- (b) The Contractor shall immediately resume the temporarily suspended Work when ordered in writing by the Owner to do so. The Owner shall not under any circumstances be liable for any claim of the Contractor arising from a temporary suspension due to a cause described in Clause (a)(1) above; provided, however, that in the case of a temporary suspension for any of the reasons described under Clauses (a)(2) through (a)(4), where the Contractor is not a contributing cause of the suspension under one of those Clauses or where the provision of the Contract Documents in question specifically provides that the suspension is at no cost to the Owner, the Owner will make an equitable adjustment for the following items, provided that a claim is properly made by the Contractor under Subparagraph 4.3 of these General Conditions:
- (1) an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension as determined by the Engineer and the Owner;
  - (2) an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable costs of properly protecting any Work that is finished or partially finished during the period of the temporary suspension (no profit and overhead shall be allowed on top of these costs); and
  - (3) if it becomes necessary to move equipment from the Project site and then return it to the Project site when the Work is ordered to be resumed, an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable cost of these moves; provided, however, that no adjustment shall be due if the equipment is moved to another Project site of the Owner.

## ARTICLE 14 MISCELLANEOUS PROVISIONS

### 14.1 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS

- (a) This Contract shall be governed by the laws and case decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.
- (b) This Contract is entered into subject to and controlled by the Charter and ordinances of the City of Denton and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. The Contractor shall, during the performance of the Work, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

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**14.2 SUCCESSORS AND ASSIGNS**

The Owner and the Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the promises, covenants, terms, conditions, and obligations contained in the Contract Documents. The Contractor shall not assign, transfer, or convey its interest or rights in the Contract, in part or as a whole, without written consent of the Owner. If the Contractor attempts to make an assignment, transfer, or conveyance without the Owner's written consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract Documents. The Owner shall not assign any portion of the Contract Sum due or to become due under this Contract without the written consent of the Contractor, except where assignment is compelled or allowed by court order, the terms of the Contract Documents, or other operation of law.

**14.3 WRITTEN NOTICE**

Except as otherwise provided in Article 16, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid to the Project Manager or Superintendent of either party, or to an officer, partner, or other designated representative of either party. Mailed notices shall be addressed to the parties at an address designated by each party, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

**14.4 RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY OWNER**

(a) The duties and obligations imposed on the Contractor by the Contract Documents and the rights and remedies available to the Owner under the Contract Documents shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or made available by law.

(b) No action or failure to act by the Owner shall constitute a waiver of a right afforded the Owner under the Contract Documents, nor shall any action or failure to act by the Owner constitute approval of or acquiescence in a breach of the Contract by Contractor, except as may be specifically agreed in writing by Change Order or Supplemental Agreement.

**14.5 INTEREST**

The Owner shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to Paragraph 9.6(a) of these General Conditions.

**14.6 OFFICERS OR EMPLOYEES OF THE OWNER NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF THE OWNER**

No officer or employee of the Owner shall have a financial interest, direct or indirect, in any Contract with the Owner, or be financially interested, directly or indirectly, in the sale to the Owner of any land, materials, supplies or services, except on behalf of the Owner as an officer or employee. Any violation of this article shall constitute malfeasance in office, and any officer or employee of Owner guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with the Owner shall render the Contract involved voidable by the Owner's City Manager or City Council.

**EXHIBIT 1****14.7 VENUE**

This Contract is deemed to be performed in Denton County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in Denton County, Texas.

**14.8 INDEPENDENT CONTRACTOR**

In performing the Work under this Contract, the relationship between the Owner and the Contractor is that of an independent contractor. The Contractor shall exercise independent judgment in performing the Work and is solely responsible for setting working hours, scheduling or prioritizing the Work flow and determining the means and methods of performing the Work, subject only to the requirements of the Contract Documents. No term or provision of this Contract shall be construed as making the Contractor an agent, servant, or employee of the Owner, or making the Contractor or any of the Contractor's employees, agents, or servants eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which the Owner provides to its employees.

**14.9 NONDISCRIMINATION**

As a condition of this Contract, the Contractor covenants that he will take all necessary actions to insure that, in connection with any work under this Contract, the Contractor and its Subcontractors will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. The Contractor shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, the Contractor shall keep, retain and safeguard all records relating to his Contract or Work performed thereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of the Owner, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

**14.10 GIFTS TO PUBLIC SERVANTS**

- (a) The Owner may terminate this Contract immediately if the Contractor has offered, conferred, or agreed to confer any benefit on a City of Denton employee or official that the City of Denton employee or official is prohibited by law from accepting.
- (b) For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.
- (c) Notwithstanding any other legal remedies, the Owner may require the Contractor to remove any employee of the Contractor from the Project who has violated the restrictions of this Article or any similar State or Federal law, and obtain reimbursement for any expenditures made to the Contractor as a result of the improper offer, agreement to confer, or conferring of a benefit to a City of Denton employee or official.

**ARTICLE 15 RIGHT TO AUDIT CONTRACTOR'S RECORDS**

By execution of the Building Construction Services Agreement, the Contractor grants the Owner the right to audit, at the Owner's election, all of the Contractor's records and billings relating to the performance of the Work under the Contract Documents. The Contractor agrees to retain its Project records for a minimum of five (5) years following completion of the Work. The Owner agrees that it will exercise the right to audit only at reasonable hours. City may review any and all of the services

**EXHIBIT 1**

performed by Contractor under this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City's rights as may be disclosed by an audit under this section.

**ARTICLE 16 NOTICE OF CONTRACT CLAIM**

This Contract is subject to the provisions of the Denton City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Contractor shall comply with the requirements of this ordinance as a precondition of any litigation relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

**Should a conflict arise between the PO, RFP document, supplier terms, or contract; the terms and conditions set forth in the negotiated contract shall prevail.**

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**Exhibit "C"**  
**INSURANCE REQUIREMENTS AND**  
**WORKERS' COMPENSATION REQUIREMENTS**

*Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.*

**STANDARD PROVISIONS:**

*Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.*

*As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.*

*All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:*

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- VII or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:
  - Name as Additional Insured the City of Denton, its Officials, Agents, Employees and volunteers.
  - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

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- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.
- Concerning the insurance to be furnished by the Contractor, it is a condition precedent to acceptability that:
  - (1) All policies must comply with the applicable requirements and special provisions of Attachment A.
  - (2) Any policy evidenced by a certificate of insurance or submitted for review shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements set forth herein, and the Owner's decision regarding whether any policy contains such provisions, contrary to this requirement, shall be final.
- The Contractor agrees to the following special provisions:
  - (1) The Contractor hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against the Owner, it being the intention that the insurance policies shall protect all parties to the Contract and be primary coverage for all losses covered by the policies. This waiver of subrogation shall be included, by endorsement or otherwise, as a provision of all policies required under Attachment A.
  - (2) Insurance companies issuing the insurance policies and the Contractor shall have no recourse against the Owner for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of Contractor.
  - (3) Approval, disapproval or failure to act by the Owner regarding any insurance supplied by the Contractor (or any Subcontractors) shall not relieve the Contractor of any responsibility or liability for damage or accidents as set forth in the Contract Documents. The bankruptcy, insolvency or denial of liability of or by the Contractor's insurance company shall likewise not exonerate or relieve the Contractor from liability.
  - (4) The Owner reserves the right to review the insurance requirements of this Attachment A during the effective period of this Contract and to modify insurance coverage's and their limits when deemed necessary and prudent by the Owner's Risk Management Division, based upon economic conditions, the recommendation of professional insurance advisors, changes in statutory law, court decisions or other relevant factors. The Contractor agrees to make any reasonable request for deletion, revision or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either party to this Contract or upon the underwriter of any such policy provisions). Upon request by the Owner, the Contractor shall exercise reasonable efforts to accomplish such changes in policy coverage's and shall pay the cost thereof.

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- (5) No special payments shall be made for any insurance policies that the Contractor and Subcontractors are required to carry; all are included in the stated Contract value.

**SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:**

*All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:*

**[X] A. General Liability Insurance:**

General Liability insurance with combined single limits of not less than **\$1,000,000.00** shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability Form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:

- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

**[X] Automobile Liability Insurance:**

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **\$500,000** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

**Satisfaction of the above requirement shall be in the form of a policy endorsement for:**

- any auto, or
- all owned hired and non-owned autos.

**[X] Workers' Compensation Insurance**

Contractor shall purchase and maintain Workers' Compensation insurance which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's Liability limits of at least \$100,000 for each accident, \$100,000 per each employee, and a \$500,000 policy limit for occupational disease. The City need not be named as an "Additional Insured" but the insurer shall agree to waive all rights of subrogation against the City, its officials, agents, employees and volunteers for any work performed for the City by the Named Insured. For building or construction projects, the Contractor shall comply with the provisions of Attachment 1 in accordance with §406.096 of the Texas Labor Code and rule 28TAC 110.110 of the Texas Workers' Compensation Commission (TWCC).

**EXHIBIT 1**

**Owner's and Contractor's Protective Liability Insurance**

The Contractor shall obtain, pay for and maintain at all times during the prosecution of the work under this contract, an Owner's and Contractor's Protective Liability insurance policy naming the City as insured for property damage and bodily injury which may arise in the prosecution of the work or Contractor's operations under this contract. Coverage shall be on an "occurrence" basis and the policy shall be issued by the same insurance company that carries the Contractor's liability insurance. Policy limits will be at least \$500,000.00 combined bodily injury and property damage per occurrence with a \$1,000,000.00 aggregate.

**Fire Damage Legal Liability Insurance**

Coverage is required if Broad form General Liability is not provided or is unavailable to the contractor or if a contractor leases or rents a portion of a City building. Limits of not less than \_\_\_\_\_ each occurrence are required.

**Professional Liability Insurance**

Professional liability insurance with limits not less than \$1,000,000.00 per claim with respect to negligent acts, errors or omissions in connection with professional services is required under this Agreement.

**EXHIBIT 1**

**Builders' Risk Insurance**

Builders' Risk Insurance, on an All-Risk form for 100% of the completed value shall be provided. Such policy shall include as "Named Insured" the City of Denton and all subcontractors as their interests may appear.

**Commercial Crime**

Provides coverage for the theft or disappearance of cash or checks, robbery inside/outside the premises, burglary of the premises, and employee fidelity. The employee fidelity portion of this coverage should be written on a "blanket" basis to cover all employees, including new hires. This type insurance should be required if the contractor has access to City funds. Limits of not less than \$ \_\_\_\_\_ each occurrence are required.

**Additional Insurance**

Other insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Specific Conditions" of the contract specifications.

**Umbrella Liability Insurance**

Depending on the size of the project, the City may require the Contractor to obtain, pay for, and maintain umbrella liability insurance during the Contract term, insuring Contractor for an amount of not less than \$3,000,000 per occurrence combined limit for Bodily Injury (including death) and Property Damage, that follows form and applies in excess of the primary coverage required hereinabove. The Owner and Engineer shall be named as additional insureds using the broadest form of endorsement available, with such status extended to include the extension of the completed operations coverage as described in this Attachment. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

**EXHIBIT 1**

**ATTACHMENT A**

**[X] Workers' Compensation Coverage for Building or Construction Projects for Governmental Entities**

**A. Definitions:**

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
  - 1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
  - 2. no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

**EXHIBIT 1**

- F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
  - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
  - 2. provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
  - 3. provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - 4. obtain from each other person with whom it contracts, and provide to the contractor:
    - a. a certificate of coverage, prior to the other person beginning work on the project; and
    - b. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
  - 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
  - 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

**EXHIBIT 1**

- J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

**EXHIBIT 1**

**EXHIBIT 1**

**Exhibit "D"  
PERFORMANCE BOND**

Bond#3375534

STATE OF TEXAS §

COUNTY OF DENTON §

KNOW ALL MEN BY THESE PRESENTS: That Durable Specialties, Inc. whose address is 2302 Paddock Way Dr Grand Prairie, TX\* hereinafter called Principal, and Great American Insurance Company of New York a corporation organized and existing under the laws of the State of NY, and fully authorized to transact business in the State of Texas, as Surety, are held and firmly bound unto the City of Denton, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter called Owner, in the penal sum of Two Hundred and Fifty Thousand and no/100 DOLLARS (\$250,000.00) in lawful money of the United States, to be paid in Denton County, Texas, for the payment of which sum well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

\*75050

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract, identified by Ordinance Number 2014- 089, with the City of Denton, the Owner, dated the 1 day of April A.D. 2014, a copy of which is hereto attached and made a part hereof, for RFP # 5442 Construction of Traffic Intersections,

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the Plans, Specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Owner, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of final completion and final acceptance of the Work by the Owner; and, if the Principal shall fully indemnify and save harmless the Owner from all costs and damages which Owner may suffer by reason of failure to so perform herein and shall fully reimburse and repay Owner all outlay and expense which the Owner may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

**EXHIBIT 1**

EXHIBIT 1

PROVIDED FURTHER, that if any legal action be filed upon this Bond, exclusive venue shall lie in Denton County, State of Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Denton County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in four copies, each one of which shall be deemed an original, this the 1 day of April, 2014. ✓

ATTEST:

PRINCIPAL

BY: Carol Ann Richter  
SECRETARY

Durable Specialties, Inc.  
BY: Jeffrey C. Boyer  
PRESIDENT

ATTEST:

SURETY

BY: [Signature]

Great American Insurance Company of New York  
BY: [Signature]  
ATTORNEY-IN-FACT Jack M Crowley

The Resident Agent of the Surety in Denton County, Texas for delivery of notice and service of the process is:

NAME: Southwest Assurance Group, Inc., / Bret Tomlinson

STREET ADDRESS: 124 Old Town Blvd., #200, Argyle, TX 76226

(NOTE: Date of Performance Bond must be date of Contract. If Resident Agent is not a corporation, give a person's name.)

OK  
5/2/2014  
SP

**EXHIBIT 1**

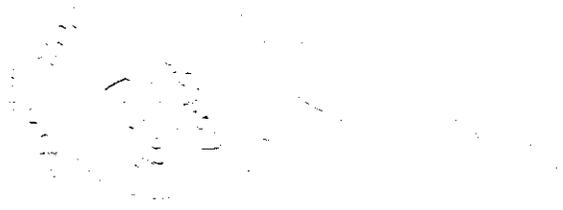
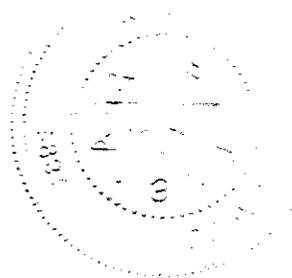


EXHIBIT 1

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK

New York

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than FOUR

No. 0 19950

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK, a corporation organized and existing under and by virtue of the laws of the State of New York, does hereby nominate, constitute and appoint the person or persons named below its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Table with 3 columns: Name, Address, Limit of Power. Rows include JACK M. CROWLEY, PATRICIA A. SMITH, STEVEN R. FOSTER, MARIE PERRYMAN, ADDISON, TEXAS.

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF, the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 29TH day of NOVEMBER, 2012.

Attest

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK



Assistant Secretary

Divisional Senior Vice President

DAVID C. KITCHIN (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON-ss:

On this 29TH day of NOVEMBER, 2012, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company of New York, the Company described in and which executed the above instrument; that he knows the seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



KAREN L. GROSHEIM
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 02-20-16

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company of New York by unanimous written consent dated May 14, 2009.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company of New York, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of May 14, 2009 have not been revoked and are now in full force and effect.

Signed and sealed this 1st day of April

2014



Assistant Secretary

Handwritten initials/signature

**EXHIBIT 1**



EXHIBIT 1

Exhibit "D"  
PAYMENT BOND

Bond#3375534

STATE OF TEXAS §

COUNTY OF DENTON §

KNOW ALL MEN BY THESE PRESENTS: That Durable Specialties, Inc. whose address is 2302 Paddock Way Drive, Grand Prairie, TX 75050, hereinafter called Principal, and Great American Insurance Co of NY, a corporation organized and existing under the laws of the State of Texas, and fully authorized to transact business in the State of Texas, as Surety, are held and firmly bound unto the City of Denton, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter called Owner, and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon, the building or improvements hereinafter referred to, in the penal sum of Two Hundred and Fifty Thousand and no/100 DOLLARS (~~\$250,000.00~~) in lawful money of the United States, to be paid in Denton, County, Texas, for the payment of which sum well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract, identified by Ordinance Number 2014- 089, with the City of Denton, the Owner, dated the 1 day of April A.D. 2014, a copy of which is hereto attached and made a part hereof, for RFP# 5442-Construction of Traffic Control Intersections.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in said Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed on this Bond, exclusive venue shall lie in Denton County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc.

**EXHIBIT 1**

EXHIBIT 1

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Denton County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such surety, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in four copies, each one of which shall be deemed an original, this the 1 day of April, 2014.

ATTEST:

PRINCIPAL

BY: Carol Ann Richter  
SECRETARY

Durable Specialties, Inc.  
BY: Jeffrey C. Boyer  
PRESIDENT

ATTEST:

SURETY:

BY: [Signature]

Great American Insurance Company of New York  
BY: Jack M. Crowley  
ATTORNEY-IN-FACT

The Resident Agent of the Surety in Denton County, Texas for delivery of notice and service of the process is:

NAME: Southwest Assurance Group, Inc./ Bret Tomlinson

STREET ADDRESS: 124 Old Town Blvd., #200, Argyle, TX 76226

(NOTE: Date of Payment Bond must be date of Contract. If Resident Agent is not a corporation, give a person's name.)

OK  
5/16/2014  
SP

**EXHIBIT 1**

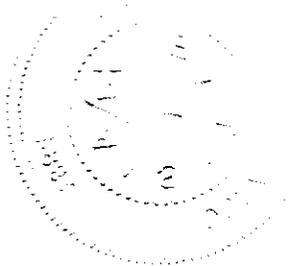


EXHIBIT 1

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK

New York

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than FOUR

No. 0 19950

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK, a corporation organized and existing under and by virtue of the laws of the State of New York, does hereby nominate, constitute and appoint the person or persons named below its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Table with 3 columns: Name, Address, Limit of Power. Rows include JACK M. CROWLEY, STEVEN R. FOSTER, PATRICIA A. SMITH, and MARIE PERRYMAN.

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF, the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 29TH day of NOVEMBER, 2012.

Attest

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK



Assistant Secretary

Handwritten signature of David C. Kitchin

Divisional Senior Vice President

DAVID C. KITCHIN (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON-ss:

On this 29TH day of NOVEMBER, 2012, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company of New York, the Company described in and which executed the above instrument; that he knows the seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



KAREN L. GROSHEIM NOTARY PUBLIC, STATE OF OHIO MY COMMISSION EXPIRES 02-20-16

Handwritten signature of Karen L. Grosheim

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company of New York by unanimous written consent dated May 14, 2009.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company of New York, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of May 14, 2009 have not been revoked and are now in full force and effect.

Signed and sealed this 1st day of April, 2014

2014



Assistant Secretary

Handwritten note: OK 5/16/2014 SP

**EXHIBIT 1**

11/11/2020  
11/11/2020  
11/11/2020

**EXHIBIT 1**



**Great American Insurance Company of New York  
Great American Alliance Insurance Company  
Great American Insurance Company**

**IMPORTANT NOTICE:**

To obtain information or make a complaint:

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

**1-800-252-3439**

You may write the Texas Department of Insurance at:

P.O. Box 149104  
Austin, TX 78714-9104  
FAX # 1-512-475-1771

Your notice of claim against the attached bond may be given to the surety company that issued the bond by sending it by certified or registered mail to the following address:

Mailing Address: Great American Insurance Company Claim  
P.O. Box 2575  
Cincinnati, Ohio 45201-2575

Physical Address: Great American Insurance Company Claim  
580 Walnut Street  
7th Floor  
Cincinnati, Ohio 45202-3180

You may also contact the Great American Insurance Company Claim office by telephone at:

Telephone Number: 1-513-369-5069

**PREMIUM OR CLAIM DISPUTES:**

If you have a dispute concerning a premium, you should contact the agent first. If you have a dispute concerning a claim, you should contact the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

**ATTACH THIS NOTICE TO YOUR BOND:**

This notice is for information only and does not become a part or condition of the attached document.

**EXHIBIT 1**

**EXHIBIT 1**

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**EXHIBIT 1**

**DURABLE SPECIALTIES, INC.**

EXHIBIT 1

Exhibit "F"

---

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

---

**RFP #5442**

**CONSTRUCTION OF TRAFFIC  
CONTROL INTERSECTIONS  
FOR THE CITY OF DENTON**

## City of Denton: RFP 5442

### Statement of the Contractor's Understands of the Project Requirements

- It is Durable Specialties, Inc. understanding we will be providing a turnkey construction of new traffic signals, modification to existing traffic signals and span wire traffic signal installations. Pavement markings to be performed by others.
- Installation of traffic signals will be on a work order basis with a work.
- The contract is for one year with an option for renewal after one year.
- The goal is to perform installation of traffic signals in a timely manner and to the standards and expectations of the City of Denton.
- The unique and long lead items will be supplied by the City of Denton; i.e. controller cabinets, vehicle detection equipment, preemption equipment, communication equipment, surveillance equipment, signal housings & LEDs, traffic signal pole assemblies and etc.
- Durable Specialties, Inc. will supply the concrete, conduit, wire, cable, pull boxes, signal head mounting hardware, sign mounting hardware, electrical services, wood poles and down guys where indicated by their corresponding pay item.

EXHIBIT 1  
**DURABLE SPECIALTIES, INC.**

Exhibit "F"

---

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

---

## City of Denton: RFP 5442

### Organization

A. Durable Specialties, Inc.

**Physical Address:**

2302 Paddock Way Drive  
Grand Prairie, TX  
75050

**Mailing Address:**

PO BOX 535969  
Grand Prairie, TX  
75053-5969

B. Durable Specialties, Inc. has been in business since 1984 as a traffic signal contractor providing turnkey traffic signal installation for North Texas Municipalities and TxDot.

C. Business Profile:

- 1) Corporation
- 2) Established in 1984, 30 years doing business
- 3) 65 Employees
- 4) Specializing in traffic signal installation
- 5) 972-296-6324 Phone; 972-780-7411 Fax
- 6) 30 Years in business
- 7) Not Applicable
- 8) Single office location
- 9) Single office location
- 10) We provide turnkey traffic signal installation and own all of own equipment to provide this service.
- 11) Drew Shipman; 817-401-3070 Cell; [drew@durablespecialties.com](mailto:drew@durablespecialties.com)

Attached is our previous work experience and references.

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2007		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 215,250.00	TRAFFIC SIGNAL	2007/702	AUSTIN 183A - TURNPIKE	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 219,500.00	TRAFFIC SIGNAL SYSTEM UPGRADE	2007/704	CITY OF DESOTO VARIOUS LOCATIONS	CITY OF DESOTO 211 E. PLEASANT RUN RD DESOTO, TEXAS 75115
\$ 102,750.00	TRAFFIC SIGNAL	2007/706	GRAND PRAIRIE DORYN DR. & MAGNA CARTA	SPRING VALLEY CONSTRUCTION 10950 ALDER CIRCLE DALLAS, TEXAS 75238-1353
\$ 357,900.00	ADAPTIVE CONTROL SIGNAL SYS	2007/708	TYLER US 69	CITY OF TYLER PO BOX 2039 TYLER, TEXAS 75710
\$ 120,921.50	TRAFFIC SIGNAL	2007/710	SEAGOVILLE DIVIDEND DR. & POINT WEST BLVD	DUKE CONSTRUCTION 5495 BELTLINE RD #360 DALLAS, TEXAS 75254
\$ 122,750.00	TRAFFIC SIGNAL	2007/711	DENTON FM 407	ED BELL CONSTRUCTION PO BOX 540787 DALLAS, TEXAS 75354-0787
\$ 206,150.00	TRAFFIC SIGNAL	2007/712	DALLAS N. GALLOWAY AVE TO BELTLINE RD	REBCON, INC. 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 107,500.00	TRAFFIC SIGNAL	2007/714	WISE FM 51 & PRESKITT RD	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$ 201,149.20	TRAFFIC SIGNAL	207/720	TARRANT IH 30 & CENTER ST.	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 385,700.00	TRAFFIC SIGNAL	2007/721	TARRANT SH 199	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 4,234,419.95	TRAFFIC SIGNAL	2007/723	DALLAS VARIOUS LOCATIONS DART- CMGC-3 LINE NW-2, NW-3, NW-4	ARCHER WESTERN 2121 AVENUE J, #103 ARLINGTON, TEXAS 76006
\$ 299,800.00	TRAFFIC SIGNAL	2007/725	DALLAS NAAMAN SCHOOL RD	TRI-CON SERVICES, INC. 3010 W. MAIN ST. ROWLETT, TEXAS 75088
\$ 397,350.00	TRAFFIC SIGNAL	2007/729	WEATHERFORD MAIN ST. - DOWNTOWN	ED A. WILSON PO BOX 11423 FT. WORTH, TEXAS 76110-0423
\$ 103,600.00	TRAFFIC SIGNAL	2007/732	PLANO - VARIOUS LOC	JIM BOWMAN CONSTRUCTION 1111 SUMMIT AVE, #1 PLANO, TEXAS 75074
\$ 117,300.00	TRAFFIC SIGNAL IMPRVTS	2007/735	HOLLAND RD & BROAD STREET	L H LACY CONSTRUCTION PO BOX 541297 DALLAS, TEXAS

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

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## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2007		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 136,715.00	TRAFFIC SIGNAL MODIFY	2007/737	LUNA RD & VALLEY VIEW (RACETRAC)	JFG CONCRETE, INC. PO BOX 550 PRINCETON, TEXAS 75407
S 164,000.00	TRAFFIC SIGNAL	2007/739	SH 170 & PARK VISTA	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
S 123,300.00	TRAFFIC SIGNAL	2007/743	AMARILLO BLVD & LOWES LANE	BRAD DRAKE CONSTRUCTION 3737 LAMAR AVE, #700 PARIS, TEXAS 75462
S 666,720.00	TRAFFIC SIGNAL	2007/744	MOCKINGBIRD LANE	GIBSON & ASSOCIATES, INC. PO BOX 800579 BALCH SPRINGS, TEXAS 75180
S 101,000.00	TRAFFIC SIGNAL	2007/745	BU 287P & FM 157	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
S 117,453.00	STREET LIGHTS/ TRAFFIC SIGNALS	2007/746	TCCD SOUTH CAMPUS CAMPUS & JOE B RUSHING	ROEBUCK CONCRETE CONTRACTORS PO BOX 301 FT. WORTH, TEXAS 76101
S 462,568.80	TRAFFIC ISIGNALS	2007/751	FM 2499	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 2,835,000.00	TRAFFIC SIGNALS	2007/755	US 80	TXDOT - TYLER 15986 SH 155 TYLER, TEXAS 75703
S 254,500.00	RECONSTRUCT TRAFFIC SIGNALS	2007/757	VARIOUS LOCATIONS	CITY OF WACO PO BOX 2570 WACO, TEXAS 76072
S 334,800.00	TRAFFIC SIGNALS	2007/761	EXCHANGE PKWY TWIN CREEKS & SH 121	LACY CONSTRUCTION PO BOX 541297 DALLAS, TEXAS 75354
S 369,165.00	TRAFFIC SIGNAL IMPROVEMENTS	2007/762	SHADY OAKS & BRINKER	LACY CONSTRUCTION PO BOX 541297 DALLAS, TEXAS 75354
S 923,807.02	TRAFFIC SIGNAL INSTALL	2007/763	IH 30	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161

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**DURABLE SPECIALTIES, INC.**

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**DURABLE SPECIALTIES, INC. WORK EXPERIENCE**

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2008		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 644,378.30	TRAFFIC SIGNAL IMPROVEMENTS CITY OF FRISCO	2008/801	PANTHER CREEK PKWY AND LEGACY DR.	MARIO SINACOLA & SONS PO BOX 2329 FRISCO, TEXAS 75034
\$ 103,400.00	TRAFFIC SIGNAL TXDOT KAUFMAN COUNTY	2008/805	SH 198	TEXAS STERLING 2100 N. HWY 360, #106A GRAND PRAIRIE, TEXAS 75050
\$ 130,375.00	TRAFFIC SIGNAL CITY OF ARLINGTON	2008/806	ROUTH CREEK PKWY	L. H. LACY PO BOX 541297 DALLAS, TEXS 75354
\$ 142,000.00	TRAFFIC SIGNAL NTTA	2008/807	BRIARGROVE TO RAILROAD NORTH TO PGBT	REBCON 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 559,000.00	TRAFFIC SIGNAL	2008/808	VARIOUS LOCATIONS	CITY OF GRAND PRAIRIE 206 W. CHURCH ST. GRAN PRAIRIE, TEXAS 75050
\$ 454,250.00	TRAFFIC SIGNAL CITY OF ARLINGTON	2008/809	PLEASANT RIDGE RD.	L. H. LACY PO BOX 541297 DALLAS, TEXS 75354
\$ 111,000.00	TRAFFIC SIGNAL	2008/811	WINSCOTT RD. & OLD BENBROOK RD/BECKMAN DRIVE	CITY OF BENBROOK 911 WINSCOTT RD. BENBROOK, TEXAS 76126
\$ 413,022.00	TRAFFIC SIGNAL CITY OF RICHARDSON	2008/812	BELTLINE RD, ARAPAHO RD, CAMPBELL RD & COIT RD	REBCON 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 379,290.00	TRAFFIC SIGNAL TXDOT TARRANT	2008/819	SH 360 @ SH 180(DIVISION STREET)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 420,483.00	TRAFFIC SIGNAL TXDOT COLLIN	2008/821	FM 2934 (ELDORADO PKWY)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 651,165.00	TRAFFIC SIGNAL TXDOT DALLAS	2008/825	IH 30	TEXAS STERLING 2100 N. HWY 360, #106A GRAND PRAIRIE, TEXAS 75050
\$ 124,500.00	TRAFFIC SIGNAL TXDOT TARRANT	2008/826	SH 183	APAC-TEXAS, INC. PO BOX 1807 FT. WORTH, TEXAS 76101
\$ 899,397.00	TRAFFIC SIGNAL TXDOT DENTON	2008/827	FM 1171	GLENN THURMAN PO BOX 850842 MESQUITE, TEXAS 75185-0842
\$ 472,400.00	TRAFFIC SIGNAL CITY OF ARLINGTON	2008/828	STADIUM DR. - DIVISION STREET TO RANDOL MILL ROAD	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119
\$ 365,037.50	TRAFFIC SIGNAL CITY OF GRAND PRAIRIE	2008/829	MAYFIELD DR.	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

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DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2008		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 1,145,000.00	NON-SITE TXDOT DALLAS	2008/830	VARIOUS LOCATIONS	TXDOT - DALLAS PO BOX 133067 DALLAS, TEXAS 75313
S 656,000.00	TRAFFIC SIGNAL	2008/831	BARNETT RD & JOHNSON ROAD	TXDOT - WICHITA 1601 SOUTHWEST PKWY WICHITA FALLS, TEXAS 76302
S 328,000.00	TRAFFIC SIGNAL	2008/832	VARIOUS LOCATIONS	TXDOT - DALLAS PO BOX 133067 DALLAS, TEXAS 75313
S 125,600.00	TRAFFIC SIGNAL CITY OF DENTON	2008/835	TEASLEY LN & HICKORY CREEK	C D HENDERSON 1985 FOREST LANE GARLAND, TEXAS 75042
S 398,600.00	TRAFFIC SIGNAL TXDOT DALLAS	2008/837	MOUNTAIN CREEK PKWY	TEXAS STERLING 2100 N. HWY 360, #106A GRAND PRAIRIE, TEXAS 75050
S 168,500.00	VIDEO DETECTION	2008/838	VARIOUS LOCATIONS	CITY OF HALTOM CITY 4200 HOLLIS ST. HALTOM CITY, TEXAS 76111
S 471,009.00	TRAFFIC SIGNAL	2008/845	GEORGE BUSH TURNPIKE	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 167,192.13	TRAFFIC SIGNAL TXDOT DALLAS	2008/845	US 75 UNDERPASS @ PARKER RD	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 98,800.00	TRAFFIC SIGNAL CITY OF LEWISVILLE	2008/849	DENTON TAP RD @ HIGHLAND DR.	UNITED COMMERCIAL DEVELOPMENT 7001 PRESTON RD., #500 DALLAS, TEXAS 75205
S 148,700.00	TRAFFIC SIGNAL	2008/850	IH 20 (FM 3325/FM 1187)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 124,300.00	TRAFFIC SIGNAL	2008/852	BELKNAP ST & GROVE ST. GROVE ST. & WEATHERFORD ST.	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
S 383,500.00	TRAFFIC SIGNAL	2008/856	FM 544 - WOODBRIDGE CROSSING IMPRVMT	L. H. LACY PO BOX 541297 DALLAS, TEXAS 75354
S 1,117,000.00	TRAFFIC SIGNAL	2008/857	IH 35E	TXDOT - DALLAS PO BOX 133067 DALLAS, TEXAS 75313
S 302,000.00	TRAFFIC SIGNAL	2008/858	SH 121 - NTTA	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161

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**DURABLE SPECIALTIES, INC.**

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**DURABLE SPECIALTIES, INC. WORK EXPERIENCE**

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2009		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 129,849.00	SIGNAL MODIFICATION CITY OF FORT WORTH	2009/901	W. 7TH & CURRIE ST.	CONATSER CONSTRUCTION 5327 WICHITA ST. FT. WORTH, TEXAS 76102
\$ 260,077.00	TRAFFIC SIGNAL TXDOT TARRANT COUNTY	2009/902	IH 20 (GREAT SOUTHWEST PARKWAY)	MCPMAHON CONTRACTING PO BOX 153086 IRVING, TEXAS 75015-3086
\$ 302,700.00	TRAFFIC SIGNAL IMPROVEMENTS	2009/904	VARIOUS LOCATIONS	CITY OF NORTH RICHLAND HILLS 7200 A DICK FISHER DR. S NORTH RICHLAND HILLS, TEXAS 76182-0609
\$ 1,098,700.00	TRAFFIC SIGNAL TXDOT DALLAS	2009/906	LOOP 12	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 367,900.00	TRAFFIC SIGNAL SYSTEM IMPROVEMENTS	2009/910	VARIOUS LOCATIONS	TOWN OF ADDISON PO BOX 9010 ADDISON, TEXAS 75001-9010
\$ 149,000.00	TRAFFIC SIGNAL TXDOT PARKER COUNTY	2009/911	SH 171	PRATER EQUIPMENT CO., INC PO BOX 746 COMANCHE, TEXAS 76442
\$ 585,148.00	VITRUVIAN PARK PUBLIC INFRASTRUCTURE PHASE 1B TOWN OF ADDISON	2009/914	VITRUVIAN PARK	NORTH TEXAS CONTRACTING PO BOX 468 KELLER, TEXAS 76244
\$ 471,658.40	INSTALL 4 NEW TRAFFIC SIGNALS	2009/915	VARIOUS LOCATIONS	CITY OF ALLEN 305 CENTURY PARKWAY ALLEN, TEXAS 75013-8042
\$ 122,660.00	STREETSCAPE IMPROVEMENTS CITY OF DALLAS	2009/916	ELM ST - FROM AKARD TO ERVA	TEXAS STANDARD CONSTRUCTION PO BOX 210768 DALLAS, TEXAS 75211
\$ 315,517.00	0213-PGB-06-CN-EN SECTION XXXI NTTA	2009/918	SOUTH OF MAIN ST. TO NORTH OF SHOR OF LAKE RAY HUBBARD	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 482,330.00	TRAFFIC SIGNAL DALLAS COUNTY	2009/919	BELTLINE RD TO WHEATLAND RD..	CASH CONSTRUCTION CO., INC. PO BOX 1279 FLUGERVILLE, TEXAS 78691
\$ 122,820.00	TRAFFIC SIGNAL	2009/920	DEBBIE LANE @ BEN BARBER ACADEMY	CITY OF MANSFIELD 1200 E. BROAD ST. MANSFIELD, TEXAS 76063
\$ 121,120.00	INTERSECTION IMPROVEMENTS	2009/921	SARA JANE @ GREAT SOUTHWEST PARKWAY	MCPMAHON CONTRACTING PO BOX 153086 IRVING, TEXAS 75015-3086
\$ 149,505.00	TRAFFIC SIGNAL TXDOT DALLAS	2009/922	FM 1382	REBCON, INC. 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 150,700.00	TRAFFIC SIGNAL CITY OF HURST	2009/924	W. PIPELINE RD @ FUTURE RD	AUI CONTRACTORS 4775 N. FREEWAY FT. WORTH, TEXAS 76106
\$ 1,016,435.20	REVERSIBLE LANE SYS	2009/927	ROAD TO SIX FLAGS, COLLINS & DIVISON ST.	CITY OF ARLINGTON 1011 W. MAIN ST. ARLINGTON, TEXAS 76013

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## DURABLE SPECIALTIES, INC.

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### DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2009		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 169,819.45	INTERSECTION IMPRVTS PHASE 1B	2009/929	TOWN EAT BLVD & NORTH GALLOWAY AVE	JIM BOWMAN CONSTRUCITON 1111 SUMMIT AVE, #1 PLANO, TEXAS 75074
S 233,000.00	TRAFFIC SIGNAL INSTALL	2009/930	FM 1378 & COUNTRY CLUB DRIVE	L. H. LACY COMPANY, LTD. PO BOX 541297 DALLAS, TEXAS 75354-1297
S 590,113.80	TRAFFIC SIGNAL INSTALL AT 4 LOCATIONS	2009/931	RIDGEVIEW DR. & ALMA EXCHANGE PKWY & RIDGEVIEW DR. RIDGEVIEW DR. & WALNUT SPRINGS DR. EXCHANGE PKWY & TWIN CREEKS DR.	CITY OF ALLEN 305 CENTURY PARKWAY ALLEN, TEXAS 75013
S 128,807.50	TRAFFIC SIGNAL INSTALL	2009/937	SH 289 & LEGACY DR.	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 241,150.00	RED OAK RD STREET & UTILITY IMPROVEMENTS	2009/940	RED OAK RD & VARIOUS LOCATIONS	XIT PAVING & CONSTRUCTION 3934 S. HWY 287 WAXAHACHIE, TEXAS 75165
S 469,000.00	TRAFFIC SIGNAL INSTALLTATION	2009/944	VARIOUS LOCATIONS	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
S 102,000.00	TRAFFIC SIGNAL INSTALLATION	2009/946	US 180 & TOWN CREEK & UPPR (WB & EB)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161

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## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2010		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$445,380.00	TRAFFIC SIGNAL INSTALL	2010/001	VARIOUS LOCATIONS	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
\$630,000.00	TRAFFIC SIGNAL INSTALL	2010/002	VARIOUS LOCATIONS IN GEORGETOWN	TXDOT - AUSTIN PO BOX 15426 AUSTIN, TEXAS 78761-5426
\$53,000.00	ANNUAL LOOP INSTALL	2010/003	VARIOUS LOCATIONS	CITY OF GARLAND 409 FOREST GATE GARLAND, TEXAS 75041
\$135,000.00	TRAFFIC SIGNAL INSTALL	2010/004	PLEASANT RUN RD	L. H. LACY COMPANY PO BOX 541297 DALLAS, TEXAS 75354-1297
\$73,000.00	TRAFFIC SIGNAL INSTALL	2010/005	ALSBURY BLVD & SUMMERCREST BLVD	CITY OF BURLESON 141 W. RENFRO ST. BURLESON, TEXAS 76028
\$82,000.00	TRAFFIC SIGNAL INSTALL	2010/006	BARR RD.	MCCLENDON CONSTRUCTION PO BOX 999 BURLESON, TEXAS 76097
\$105,960.00	TRAFFIC SIGNAL INSTALL	2010/007	FM 407 & CHIN CHAPEL	TISEO PAVING PO BOX 270040 DALLAS, TEXAS 75227-0040
\$219,375.00	TRAFFIC SIGNAL INSTALL	2010/008	OLD DECATUR TO BUSINESS 287	AUI CONTRACTORS, INC. 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$90,101.95	TRAFFIC SIGNAL INSTALL	2010/011	CEDAR SPRINGS - DALLAS LOVE FIELD	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$115,500.00	TRAFFIC SIGNAL INSTALL	2010/012	N. COUNTRY CLUB RD. & W. BROWN ST.	GLENN THURMAN PO BOX 850842 MESQUITE, TEXAS 75185-0842
\$132,000.00	TRAFFIC SIGNAL INSTALL	2010/013	US 380	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$192,000.00	TRAFFIC SIGNAL INSTALL	2010/014	VARIOUS LOCATIONS	CITY OF WACO PO BOX 2570 WACO, TEXAS 76702-2570
\$315,165.00	PAVING & DRAINING IMPROVEMENTS	2010/017	DIRKS RD - FROM BRYANT IRVIN RD TO HARRIS PKWY	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119
\$151,245.00	WAL-MART TRAF SIG IMPROVEMENTS	2010/018	EXCHANGE PKWY & WALMART DR	EMJ CORPORATION 5525 N. MACARTHUR BLVD, #400 IRVING, TEXAS 75038
\$828,000.00	TRAF SIGNAL INSTALL	2010/021	IH 30 & FERGUSON RD.	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$105,500.00	TRAF SIGNAL INSTALL	2010/023	CS (MONTFORT DR.)	MCMAHON CONTRACTING PO BOX 153086 IRVING, TEXAS 75015-3086

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## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2010		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$938,300.00	PREVENTATIVE MAINTENANCE	2010/024	IH 35-E @ VARIOUS LOCATIONS	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$233,500.75	TRAFFIC SIGNAL INSTALL	2010/028	GRENNVILLE AVE & HIGH POINT TRAIL RD AND MCDERMOTT DR & SHALLOWATER DR	CITY OF ALLEN 305 CENTURY PKWY ALLEN, TEXAS 75013
\$760,234.00	TRAFFIC SIGNAL INSTALL	2010/30	FM 720 (ELDORADO PKWY)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$1,358,000.00	2010 GRAND TASK ORDER CONSTRUCTION SVCS	2010/031	VARIOUS LOCATIONS	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
\$147,760.00	VIDEO IMAGE DETECTION	2010/032	FM 1171 @ VAR LOCATIONS	CITY OF LEWISVILLE PO BOX 299002 LEWISVILLE, TEXAS 75029-9002
\$198,400.00	VIVDS AT TEN LOCATIONS	2010/033	VARIOUS LOCATIONS	CITY OF LEWISVILLE PO BOX 299002 LEWISVILLE, TEXAS 75029-9002
\$354,000.00	TRAFFIC SIGNAL INSTALL	2010/039	SPRING VALLEY WIDENING	NORTH TEXAS CONTRACTING PO BOX 468 KELLER, TEXAS 76244
\$116,400.00	TRAFFIC SIGNAL INSTALL	2010/040	IH 35 AT HERTIAGE TRACE PKWY	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$1,255,000.00	NON-SITE SPECIFIC	2010/041	VARIOUS LOCATIONS	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$137,000.00	INSTALLATION OF STREETLIGHTING	2010/042	GREENVILLE FROM EXCHANGE PKW TO STACY ROAD	CITY OF ALLEN 305 CENTURY PKWY ALLEN, TEXAS 75013
\$365,735.00	TRAFFIC SIGNAL INSTALL	2010/045	ARKANSAS LANE REBUILD	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119
\$415,900.00	CITY WIDE TRAFFIC SIGNAL IMPRVTS	2010/047	VARIOUS LOCATIONS	CITY OF BEDFORD 1813 RELIANCE PKWY BEDFORD, TEXAS 76021
\$105,000.00	TRAFFIC SIGNAL INSTALL	2010/048	CLAY RD	TOWN OF SUNNYVALE 127 COLLINS RD SUNNYVALE, TEXAS 75182
\$120,425.00	TRAFFIC SIGNAL INSTALL	2010/049	WEBB CHAPEL @ WALMART DRIVEWAY	EMJ CORPORATION 5525 N. MACARTHUR BLVD, #400 IRVING, TEXAS 75038
\$278,900.00	TRAFFIC SIGNAL INSTALL	2010/050	N. MAIN ST - PHASE 1	XIT PAVING & CONSTRUCTION 3934 S. HWY 287 WAXAHACHIE, TEXAS 75165

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## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2011		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$408,849.00	TRAFFIC SIGNAL INSTALL	2011/101	RUFF SNOW DR. AT VARIOUS LOCATIONS	AUI CONTRACTORS, INC. 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$177,000.00	TRAFFIC SIGNAL INSTALL	2011/103	FM 741	ED BELL CONSTRUCTION PO BOX 540787 DALLAS, TEXAS 75354-0787
\$213,252.00	TRAFFIC SIGNAL INSTALL	2011/106	INWOOD IMPROVEMENTS	LEMCO CONSTRUCTION SERVICES 14131 MIDWAY RD, #600 ADDISON, TEXAS 75001
\$140,940.00	TRAFFIC SIGNAL INSTALL	2011/113	FM 1187	LONE STAR CONSTRUCTION 4320 WINDSOR CENTRE TRAIL, #500 FLOWER MOUND, TEXAS 75028
\$762,790.00	TRAFFIC SIGNAL INSTALL	2011/114	SOUTHEAST PKWY TO WEBB FERRELL	L H LACY COMPANY PO BOX 541297 DALLAS, TEXAS 75354-1297
\$405,000.00	TRAFFIC SIGNAL INSTALL	2011/115	FM 51	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$354,000.00	TRAFFIC SIGNAL INSTALL	2011/117	SH 34	AUI CONTRACTORS, INC. 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$201,700.00	TRAFFIC SIGNAL INSTALL	2011/120	VITRUVIAN WAY AT BELLA WAY	CPS CIVIL 1215 CREST LANE DR. DUNCANVILLE, TEXAS 75137
\$129,472.92	TRAFFIC SIGNAL INSTALL	2011/121	SH 183 / SH 121 INTERCHANGE	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$1,300,000.00	ADVANCED TRANSPORTATION MANAGEMENT SERVICES	2011/123	VARIOUS LOCATIONS	DFW AIRPORT 3003 S. SERVICE RD. DFW AIRPORT, TEXAS 75261
\$285,000.00	TRAFFIC SIGNAL INSTALL	2011/125	MEMORIAL DR & STANDRIDGE	CITY OF THE COLONY C/O HDR ENGINEERING, INC. 17111 PRESTON RD., #200 DALLAS, TEXAS 75248-1232
\$112,000.00	TRAFFIC SIGNAL INSTALL	2011/126	SH 199	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$182,000.00	TRAFFIC SIGNAL INSTALL	2011/127	BU 190F @ FM 3219	TXDOT - WACO 100 S. LOOP DR. WACO, TEXAS 76704-2858
\$226,000.00	SIGNAL & INTERSECTION IMPROVEMENTS	2011/128	CANNON @ BROAD & CANNON @ MATLOCK	MCCLENDON CONSTRUCTION, INC. PO BOX 996 BURLESON, TEXAS 76097
\$104,500.00	TRAFFIC SIGNAL IMPROVEMENTS	2011/129	ELDORADO @ HILLCREST & ELDORADO @ COIT RD	CITY OF FRISCO 6101 FRISCO SQUARE BLVD, 3RD FLOOR FRISCO, TEXAS 75034

# EXHIBIT 1 DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2011		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$483,350.00	IH 635 MANAGED LANES	2011/130	VARIOUS LOCATIONS	TRINITY INFRASTRUCTURE, LLC 5520 I-635 EAST, #150 DALLAS, TEXAS 75240
\$140,000.00	TRAFFIC SIGNAL INSTALL	2011/131	FM 51	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$222,000.00	TRAFFIC SIGNAL IMPROVEMENTS	2011/136	GASTON AVE & WASHINGTON AVE	CPS CIVIL 1215 CREST LANE DR. DUNCANVILLE, TEXAS 75137
\$150,900.00	RICHLAND HILLS TRE STATION ACCESS ENHANCEMENT	2011/137	HANDLEY-EDERVILLE @ BURNS RD/TRINITY BLVD	NORTH STAR CONSTRUCTION, INC. 3210 JOYCE DR. FT. WORTH, TEXAS
\$142,000.00	ST. LIGHT IMPROVEMENTS	2011/140	GIFFORD ST. & BAGDAD RD.	HAYDEN BUILDING CORPORATION 4640 E. COTTON GIN LOOP PHOENIX, AZ 85040
\$143,144.00	TRAF SIG INSTALL & LEFT TURN LAN IMPRVTS	2011/144	UPTOWN BLVD & S. WALMART & FM 1382	CITY OF CEDAR HILL PO BOX 96 CEDAR HILL, TEXAS 75106
\$301,300.00	LAKE RIDGE PKWY WIDENING	2011/146	LAKE RIDGE PKWY @ VARIOUS LOCATIONS	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015-3086
\$539,530.00	TRAFFIC SIGNAL INSTALL	2011/147	SH 171 - FM 1884 TO IH 20	JAY MILLS CONTRACTING, INC. PO BOX 1669 STEPHENVILLE, TEXAS 76401
\$104,000.00	9500476; DFW AIRPORT CROSS UNDER #1	2011/148	NORTH SERVICE RD @ CROSS UNDER #1	NORTH TEXAS CONTRACTING, INC. PO BOX 468 KELLER, TEXAS 76244
\$428,000.00	TRAFFIC SIGNAL INSTALL AT 4 LOCATIONS	2011/150	VARIOUS LOCATIONS	CITY OF GRAND PRAIRIE PO BOX 534045 GRAND PRAIRIE, TEXAS 75053-4045
\$129,177.00	COOKS CHILDREN'S MEDICAL CENTER	2011/151	6 TH & 7TH STREET @ PENNSYLVANIA AVE	CONATSER CONSTRUCTION TX., L.P. PO BOX 15448 FT. WORTH, TEXAS 76119
\$138,596.25	INTERSECTION IMPRVTS	2011/154	MATLOCK ROAD	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015
\$330,000.00	TRAFFIC SIGNAL INSTALL	2011/155	FM 407	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$178,000.00	TRAFFIC SIGNAL INSTALL	2011/156	NORTH BEACH ST.	CONATSER CONSTRUCTION TX., L.P. PO BOX 15448 FT. WORTH, TEXAS 76119

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## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2012		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 197,000.00	TRAFFIC SIGNAL INSTALL	2012 / 203	WEST BERRY STREET	MCCLENDON CONSTRUCTION PO BOX 996 BURLESON, TEXAS 76097
S 98,000.00	INTERSECTION IMPROVEMENTS	2012 / 205	PARKER RD, SPRING VALLEY PKWY & JUPITER RD	JIM BOWMAN CONSTRUCTION 2716 S. RIGSBEE DRIVE PLANO, TEXAS 75074
S 194,204.00	WEST BROWN STREET IMPROVEMENTS	2012 / 207	COUNTRY CLUB RD TO NORTH BALLARD AVE	MCMAHON CONTRACTING, LP PO BOX 153086 IRVING, TEXAS 75015
S 104,500.00	TRAFFIC SIGNAL INSTALL	2012 / 208	MILITARY PARKWAY AT CEDAR LAKE DRIVE	LEMCO CONSTRUCTION SERVICES 14131 MIDWAY ROAD ADDISON, TEXAS 75001
S 173,000.00	PRESTON ROAD ADA IMPROVEMENTS	2012 / 210	GAYLORD PKWY, WARREN PKWY, LEBANON RD WADE BLVD	CITY OF FRISCO 6101 FRISCO SQUARE BLVD FRISCO, TEXAS 75034
S 349,600.00	PLEASANT RUN RD RECONSTRUCTION PH 4B (PW06-0039)	2012 / 212	PLEASANT RUN RD	L.H. LACY COMPANY, LTD. 1880 CROWN ROAD DALLAS, TEXAS 75234
S 162,447.95	BLUE LINE EXPANSION	2012 / 213	SH 66 @ MARTIN	AUSTIN BRIDGE & ROAD 4817 ROWLETT ROAD ROWLETT, TEXAS 75088
S 150,000.00	ROADWAY ILLUMINATION	2012 / 214	NORTH BEACH ST. KELLERY HICKS TO TIMBERLAND BLVD	JLB CONTRACTING, LP PO BOX 24131 FT. WORTH, TEXAS 76124
S 180,000.00	TRAFFIC SIGNAL INSTALL	2012 / 217	W. WINDSOR DRIVE	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015
S 120,000.00	TRAFFIC SIGNAL INSTALL	2012 / 218	BU 377H @ RESORT CONFERENCE CENTER	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
S 140,000.00	ILLUMINATION & TRAFFIC SIGNAL INSTALL	2012 / 221	JOHN HICKMAN PARKWAY FROM WEST OF PRESTON ROAD TO OHIO DRIVE	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015
S 215,000.00	TRAFFIC SIGNAL INSTALL	2012 / 222	DFW AIRPORT CROSSUNDER #2	PHILLIPS MAY CORPORATION 4861 SHARP STREET DALLAS, TEXAS 75247
S 202,000.00	TRAFFIC SIGNAL INSTALL	2012 / 224	SACHSE ROAD AT MILES/ BRYAN STREET	CITY OF SACHSE 3815-B SACHSE ROAD SACHSE, TEXAS 75048
S 108,000.00	TRAFFIC SIGNAL INSTALL	2012 / 225	US 67 (CR 209 E. OF ALVARADO)	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
S 97,700.00	TEMP & PERM TRAFFIC SIGNAL INSTALL	2012 / 228	DART ORANGE LINE I-3 FREEPORT PARKWAY @ AIRFIELD DRIVE	MASS ELECTRIC CONSTRUCTION COMPANY 8700 FREEPORT PARKWAY, #160 IRVING, TEXAS 75063

**EXHIBIT 1**  
**DURABLE SPECIALTIES, INC.**

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DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2012		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 129,849.75	SAW CUT LOOPS	2012 / 229	SH 180	APAC-TEXAS, INC 2121 IRVING BLVD DALLAS, TEXAS 75207
S 437,000.00	TEMP & PERM TRAFFIC SIGNAL INSTALL	2012 / 231	SH 26	AUI CONTRACTORS, LP 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
S 147,074.00	TRAFFIC SIGNAL INSTALL	2012 / 233	US 180	ED BELL CONSTRUCTION 10605 HARRY HINES BLVD DALLAS, TEXAS 75220-2634
S 156,000.00	TRAFFIC SIGNAL INSTALL	2012 / 236	N. TARRANT PKWY @ KELLER SMITH	L H LACY COMPANY, LTD. PO BOX 541297 DALLAS, TEXAS 75354-1297
S 456,000.00	TEMP & PERM TRAFFIC SIGNAL INSTALL	2012 / 237	FM 1187	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015

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## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2013		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 1,679,500.00	TRAFFIC SIGNAL & ILLUMINATION MODIFICATION	2013 / 301	US 287 TO MILLER AVENUE	JACKSON CONSTRUCTION, LTD. 5112 SUN VALLEY DRIVE FT. WORTH, TEXAS 76119
S 129,000.00	TRAFFIC SIGNAL INSTALL	2013 / 302	FM 1187	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
S 363,000.00	PERM & TEMP TRAFFIC SIGNAL INSTALL	2013 / 304	INDEPENDENCE & CUSTER	TISEO PAVING COMPANY PO BOX 270040 DALLAS, TEXAS 75227
S 99,628.00	TRAFFIC SIGNAL MODIFY	2013 / 305	FM 156 @ BASSWOOD BLVD	D R HORTON , INC 6751 NORTH FREEWAY FT. WORTH, TEXAS 76131
S 417,155.00	LIGHTING PHASE II & PARKING LOT LIGHTS	2013 / 306	MAIN ST @ LAKESHORE DR. AND BEARD PARK	XIT PAVING & CONSTRUCTION, INC. 3934 S. HIGHWAY 287 WAXAHACHIE, TEXAS 75165
S 105,000.00	TRAFFIC SIGNAL INSTALL	2013 / 308	US 377	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
S 105,000.00	TRAFFIC SIGNAL INSTALL	2013 / 310	ELDORADO PARKWAY (FM 2934) AT WAL-MART	CITY OF FRISCO 6101 FRISCO SQUARE BLVD 3RD FLOOR EAST FRISCO, TEXAS 75034
S 447,000.00	PERM & TEMP TRAFFIC SIGNAL INSTALL	2013 / 312	IH 35W	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 152,875.00	TRAFFIC SIGNAL INSTALL BNSF TOWERS 55	2013 / 317	HAMPTON ST: BELKNAP ST & WEATHERFORD ST	AUI CONTRACTORS, LP 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
S 111,000.00	TRAFFIC SIGNAL INSTALL	2013 / 319	TURTLE CREEK / CEDAR SPRINGS AT TURTLE CREEK BLVD.	AUI CONTRACTORS, LP 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
S 815,000.00	NON-SITE SPECIFIC	2013 / 320	VARIOUS LOCATIONS	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
S 91,300.00	MAINTENANCE	2013 / 321	US 287	TXDOT - WF 1601 SOUTHWEST PKWY WICHITA FALLS, TEXAS 76302-4906
S 170,000.00	SOLAR PWRD CROSSWALK SYSTEM & SOLAR PWRD DRIVER SPEED ASSY	2013 / 323	VARIOUS LOCATIONS	KEN-DO CONTRACTING, LP PO BOX 2001 DESOTO, TEXAS 75123
S 135,650.00	TRAFFIC SIGNAL INSTALL	2013 / 324	FM 548 @ KROGER DRIVE	HAWKINS CONSTRUCTION, INC. PO BOX 1636 TARPON SPRING, FL 34688-1636
S 280,964.00	PERM & TEMP TRAFFIC SIGNAL INSTALL	2013 / 327	FM 663	ED BELL CONSTRUCTION COMPANY PO BOX 540787 DALLAS, TEXAS 75354-0787
S 182,000.00	TRAFFIC SIGNAL IMPROVEMENTS	2013 / 329	FM 2499 @ LIVE OAK	CITY OF HIGHLAND VILLAGE 1000 HIGHLAND VILLAGE RD HIGHLAND VILLAGE, TEXAS 75077

EXHIBIT 1  
**DURABLE SPECIALTIES, INC.**

Exhibit "F"

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DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2013		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 1,598,000.00	NON-SITE SPECIFIC	2013 / 330	VARIOUS LOCATIONS	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313-3067
S 390,662.00	TRAFFIC SIGNAL INSTALL	2013 / 331	KENTUCKY STREET AT VARIOUS LOCATIONS	NORTH TEXAS CONTRACTING PO BOX 468 KELLER, TEXAS 76244
S 222,101.00	STREET LIGHTING & SCHOOL ZONE FLASHER	2013 / 335	EAST BROAD STREET	XIT PAVING & CONSTRUCTION, INC. 3934 S. HIGHWAY 287 WAXAHACHIE, TEXAS 75165
S 109,100.00	TRAFFIC SIGNAL INSTALL	2013 / 336	SH 289	REBCON, INC. 1866 W. NORTHWEST HWY DALLAS, TEXAS 75220
S 120,000.00	TRAFFIC SIGNAL INSTALL	2013 / 337	FM 3029	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
S 136,900.00	TRAFFIC SIGNAL INSTALL	2013 / 338	INDEPENDENCE PKWY AT KELMSCOT DRIVE	CITY OF FRISCO 6101 FRISCO SQUARE BLVD 3RD FLOOR EAST FRISCO, TEXAS 75034
S 102,650.00	2011 INTERSECTION CAPACITY IMPROVEMENT	2013 / 340	VARIOUS LOCATIONS	MCCLENDON CONSTRUCTION PO BOX 999 BURLESON, TEXAS 76097

EXHIBIT 1

THE AMERICAN INSTITUTE OF ARCHITECTS <sup>Exhibit "F"</sup>

AIA Document A310  
Bid Bond

KNOW ALL MEN BY THESE PRESENTS, THAT WE Durable Specialties, Inc.  
P.O. Box 535969 Grand Prairie TX 75050

as Principal, hereinafter called the Principal, and Great American Insurance Company  
301 East Fourth Street Cincinnati OH 45202

a corporation duly organized under the laws of the State of OH  
as Surety, hereinafter called the Surety, are held and firmly bound unto City of Denton, TX  
TX

as Obligee, hereinafter called the Obligee, in the sum of Five Percent of the Greatest Amount Bid  
Dollars (\$ 5% GAB ),  
for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs,  
executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for RFP 5442/ Intersection Traffic Control Construction

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with  
the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or  
Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt  
payment of labor and materials furnished in the prosecution thereof, or in the event of the failure of the Principal to enter  
such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the  
penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith  
contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise  
to remain in full force and effect.

Signed and sealed this 6th day of February, 2014

K Fox  
(Witness)

Durable Specialties, Inc.  
(Principal) (Seal)  
By: [Signature] v.p.  
(Title)

[Signature]  
(Witness)



Great American Insurance Company  
(Surety) (Seal)  
[Signature]  
Attorney-in-Fact Jack M. Crowley (Title)

EXHIBIT 1

Exhibit "F"

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than FOUR

No. 019950

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
JACK M. CROWLEY	ALL OF	ALL
STEVEN R. FOSTER	ADDISON,	\$75,000,000.00
PATRICIA A. SMITH	TEXAS	
MARIE PERRYMAN		

This Power of Attorney revokes all previous powers issued in behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 21<sup>st</sup> day of, JULY, 2011.

Attest

GREAT AMERICAN INSURANCE COMPANY



*[Handwritten signature]*

*[Handwritten signature]*

DAVID C. KITCHIN (513-412-4602)

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this 21<sup>st</sup> day of JULY, 2011, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



KAREN L. GROSHEIM  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES 02-20-16

*[Handwritten signature: Karen L. Grosheim]*

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this 6th day of February, 2014



*[Handwritten signature]*

**EXHIBIT 1**

**Exhibit "F"**



**Purchasing Department  
901-B Texas St.  
Denton, TX 76209  
(940) 349-7100  
[www.dentonpurchasing.com](http://www.dentonpurchasing.com)**

**ADDENDUM # 1**

**RFP # 5442**

**For  
Construction of Traffic Control  
Intersections for the City of Denton**

**Issue Date: January 31, 2014  
Response due Date and Time (Central Time):  
Thursday, February 6, 2014, 2:00 p.m.**

**EXHIBIT 1**

**Exhibit "F"**

RFP # 5442

**ADDENDUM # 1**

**Addendum # 1 to be returned with Proposal**

The following are changes to the specifications:

NO OTHER CHANGES AT THIS TIME.

*This form should be signed and returned with your proposal.*

Name: Patrick C. Bryan

Signature: 

Company: Durable Specialties, Inc

Title: Vice - President

Date: 2-6-14

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

**ATTACHMENT C  
BUSINESS OVERVIEW QUESTIONNAIRE**

1. Contractor Name : Durable Specialties, Inc.
2. Address (Principle Place of Business: 2302 Paddock Way Dr., Grand Prairie, TX 75050
3. Does your company have an established physical presence in the State of Texas, or the City of Denton? Yes, in the State of Texas
4. Tax Payer ID#: 75-1963459
5. Email Address of Primary contact: Patrick@durablespecialties.com
6. Website Address: N/A
7. Telephone: 972-296-6324
8. Fax: 972-780-7411
9. Other Locations: N/A
10. Organization Class:  
Corporation
11. Date Established: June 15, 1984
12. Former Business Name: N/A
13. Date of Dissolution: N/A
14. Subsidiary of : N/A
15. Historically Underutilized Business: No
16. Principals and Officers: See attached sheet  
Please detail responsibilities with the name of each principal or officer.
17. Key Personnel and Responsibilities: See attached sheet  
Please detail responsibilities with the name of each key personnel.

EXHIBIT 1  
**DURABLE SPECIALTIES, INC.**

Exhibit "F"

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**February 6<sup>th</sup> 2014**

**Contractor Name & Address:**

Durable Specialties, Inc.  
PO Box 535969  
Grand Prairie, Texas 75030

**Key Personnel:**

Jeff Bryan, Owner  
38 years experience in traffic signalization construction  
29 years as owner of the company

Zeferino Luna, Superintendent  
29 years experience in traffic signalization construction  
29 years with the company

Kevin Holter, Superintendent  
20 years experience in traffic signalization construction  
19 years with the company

Durable Specialties has constructed traffic signalization projects for 29 years with in-house crews. We have done about 1,200 traffic signalization projects with our in-house crews and in the last three years we have done about 150 traffic signalization projects. Safety Record: All of our traffic signal projects were completed, turned on and passed the required 30 day test period without any safety problems.

**EXHIBIT 1****Exhibit "F"****CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

18. Number of Personnel by Discipline:

19.

Discipline	Number of Staff	# Licensed or Certified
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20. Services Provided by Firm:

Please provide a detailed listing of all services that your company provides.

Please detail your prior experience working on similar projects with Texas governmental entities.

Please detail your similar services provided over the past two (2) years.

Detail documented proof of at least three (3) projects in the past two (2) years.

Please detail these services, including, the nature of the services provided, and the scope of the activities, the organizations for which the services were provided, the dates of the projects, and the documented benefit to the governmental entity.

21. Has your company filed or been named in any litigation involving your company and the Owner on a contract within the last five years under your current company name or any other company name? If so provide details of the issues and resolution if available. Include lawsuits where Owner was involved. No.

22. Please provide at least (3) three references (*preferably municipalities*) and contract amounts. Include project description, contact names, position, and organization name and telephone number for each reference listed. See attachment F.

23. Have you ever defaulted on or failed to complete a contract under your current company name or any other company name? If so, where and why? Give name and telephone number of Owner. No.

24. Have you ever had a contract terminated by the Owner? If so, where and why? Give name and telephone number (s) of Owner (s). No.

25. Has your company implemented an Employee Health and Safety Program compliant with 29 CFR 1910 "General Industry Standards" and/or 29 CFR 1926 "General Construction Standards" as they apply to your Company's customary activities?

[http://www.osha.gov/pls/oshaweb/owasrch.search\\_form?p\\_doc\\_type=STANDARDS&p\\_toc\\_level=1&p\\_keyvalue=1926](http://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARDS&p_toc_level=1&p_keyvalue=1926)

26. Please indicate the total number of projects your Firm has undertaken within the last five years?

27. Insurance Information

a. Name of Insurance Carrier: Continental Casualty Ins. Co.

b. Agent Name: Frank Siddons

c. Address of Agency: 2900 Marquita Drive

d. City/State: Fort Worth, TX 76116

e. Phone Number: 817-737-4943

f. Email address of Agent: hgravenor@fsifw.com

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

28. List all subcontractors whom respondent estimates will fulfill 15% or more of the contract:

29. Resident/Non-Resident Bidder Determination:

Texas Government Code Section 2252.002: Non-resident bidders. Texas law prohibits cities and other governmental units from awarding contracts to a non-resident firm unless the amount of such a bid is lower than the lowest bid by a Texas resident by the amount the Texas resident would be required to underbid in the non-resident bidders' state. In order to make this determination, please provide the name, address and phone number of:

- a. Proposing firms principle place of business: 2302 Paddock Way Dr., Grand Prairie, TX 75050
- b. Company's majority owner principle place of business: 2302 Paddock Way Dr., Grand Prairie, TX 75050
- c. Ultimate Parent Company's principle place of business: 2302 Paddock Way Dr., Grand Prairie, TX 75050

**EXHIBIT 1****Exhibit "F"****CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS****ATTACHMENT E  
SAFETY RECORD QUESTIONNAIRE**

The City of Denton desires to avail itself of the benefits of Section 252.0435 of the Local Government Code, and consider the safety records of potential contractors prior to awarding bids on City contracts. Pursuant to Section 252.0435 of the Local Government Code, the City of Denton has adopted the following written definition and criteria for accurately determining the safety record of a bidder prior to awarding bids on City contracts.

The definition and criteria for determining the safety record of a bidder for this consideration shall be:

**The City of Denton shall consider the safety record of the bidders in determining the responsibility thereof. The City may consider any incidence involving worker safety or safety of the citizens of the City of Denton, be it related or caused by environmental, mechanical, operational, supervision or any other cause or factor. Specifically, the City may consider, among other things:**

- a. Complaints to, or final orders entered by, the Occupational Safety and Health Review Commission (OSHRC), against the bidder for violations of OSHA regulations within the past three (3) years.
- b. Citations (as defined below) from an Environmental Protection Agency (as defined below) for violations within the past five (5) years. Environmental Protection Agencies include, but are not necessarily limited to, the U.S. Army Corps of Engineers (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), the Texas Natural Resource Conservation Commission (TNRCC) (predecessor to the TCEQ), the Texas Department of Health (TDH), the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection or worker safety related laws or regulations, and similar regulatory agencies of other states of the United States. Citations include notices of violation, notices of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed, pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.
- c. Convictions of a criminal offense within the past ten (10) years, which resulted in bodily harm or death.
- d. Any other safety related matter deemed by the City Council to be material in determining the responsibility of the bidder and his or her ability to perform the services or goods required by the bid documents in a safe environment, both for the workers and other employees of bidder and the citizens of the City of Denton.

In order to obtain proper information from bidders so that City of Denton may consider the safety records of potential contractors prior to awarding bids on City contracts, City of Denton requires that bidders answer the following three (3) questions and submit them with their bids:

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

**QUESTION ONE**

Has the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of OSHA within the past three (3) years?

YES \_\_\_\_\_ NO  X

If the bidder has indicated YES for question number one above, the bidder must provide to City of Denton, with its bid submission, the following information with respect to each such citation:

Date of offense, location of establishment inspected, category of offense, final disposition of offense, if any, and penalty assessed.

**QUESTION TWO**

Has the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of environmental protection laws or regulations, of any kind or type, within the past five years? Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses, or registrations, fines assessed, pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.

YES \_\_\_\_\_ NO  X

If the bidder has indicated YES for question number two above, the bidder must provide to City of Denton, with its bid submission, the following information with respect to each such conviction:

Date of offense or occurrence, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

**QUESTION THREE**

Has the bidder, or the firm, corporation, partnership, or institution represented by bidder, or anyone acting for such firm, corporation, partnership, or institution, ever been convicted, within the past ten (10) years, of a criminal offense which resulted in serious bodily injury or death?

YES \_\_\_\_\_ NO  X

If the bidder has indicated YES for question number three above, the bidder must provide to City of Denton, with its bid submission, the following information with respect to each such conviction:

Date of offense, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

EXHIBIT 1

**DURABLE SPECIALTIES, INC.**

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

**DURABLE SPECIALTIES, INC.  
REFERENCES**

CITY OF FT. WORTH  
5001 JAMES AVE., #301  
FT. WORTH, TEXAS 76115  
ATTN: MARK MATHIS-ENGINEER, KEN BROCK-INSPECTOR  
817-392-7974 OFC  
817-392-2533 FAX

CITY OF FRISCO  
6990 MAIN STREET  
FRISCO, TEXAS 75034  
ATTN: BRIAN MOEN-ENGINEER, TRACY NICHOLS-INSPECTOR  
972-335-5586 OFC  
972-731-4945 FAX

CITY OF ALLEN  
305 CENTURY PARKWAY  
ALLEN, TEXAS 75013  
ATTN: DAVID WHITEHEAD-ENGINEER, MIKE KEALY-INSPECTOR  
214-509-4580 OFC  
214-509-4590 FAX

CITY OF GRAND PRAIRIE  
206 CHURCH ST  
GRAND PRAIRIE, TEXAS 75053  
ATTN: SHOLEH KARIMI-ENGINEER, PETER JOYCE-INSPECTOR  
972-237-8053 OFC  
972-237-8116 FAX

TXDOT DALLAS  
PO BOX 133067  
DALLAS, TEXAS 75313-3067  
ATTN: CHRIS BLAIN-ENGINEER, GREG PERKINS-INSPECTOR  
214-320-6100 OFC  
214-320-4492 FAX

CITY OF MCKINNEY  
1550 S. COLLEGE  
MCKINNEY, TEXAS 75070  
ATTN: SCOTTY STEWART  
972-547-7350 OFC  
972-548-1052 FAX

CITY OF DENTON  
801 TEXAS ST.  
DENTON, TEXAS 76209  
ATTN: SCOTT WILSON  
940-349-8491 OFC  
940-349-7307 FAX

CITY OF UNIVERSITY PARK  
2525 UNIVERSITY BLVD  
UNIVERSITY PARK, TEXAS 75000  
ATTN: RANDY BROWN  
214-363-1644 OFC  
214-987-5438 FAX

CITY OF DUNCANVILLE  
330 SHADY TRAIL  
DUNCANVILLE, TEXAS 75138  
STEVE MILLER-ENGINEER, JOHN BORCHARDT-INSPECTOR  
972-780-5059 OFC  
972-780-6461 FAX

CITY OF DESOTO  
809 WEST SPINNER ROAD  
DESOTO, TEXAS 75115  
MATT MISER-SUPERVISOR, BRAD RUSSELL-INSPECTOR  
972-230-5714 OFC  
972-223-9518 FAX

CITY OF DALLAS  
1500 MARILLA STREET  
DALLAS, TEXAS 75201  
STEVE CHERRYHOLMES-ENGINEER, JOHN THOMPSON-ENGINEER  
214-670-3113 OFC  
214-670-3292 FAX

TOWN OF ADDISON  
16801 WEST GROVE DRIVE  
ADDISON, TEXAS 75001  
ROBIN JONES-ENGINEER, BRANDON GRAHAM-INSPECTOR  
972-450-2871 OFC  
972-450-2837 FAX

CITY OF MESQUITE  
1515 NORTH GALLOWAY AVENUE  
MESQUITE, TEXAS 75185  
SRINI MANDAYAM-ENGINEER, FRANK CANTRELL-INSPECTOR  
972-216-6357 OFC  
972-216-6360 FAX

CITY OF MANSFIELD  
1200 EAST BROAD STREET  
MANSFIELD, TEXAS 76063  
DAVID BOSKI-ENGINEER  
817-276-4208 OFC  
817-477-1416 FAX

EXHIBIT 1

Exhibit "F"

CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS

ATTACHMENT J  
ACKNOWLEDGEMENT

The undersigned agrees this Proposal becomes the property of the City of Denton after the official opening.

The undersigned affirms he has familiarized himself with the specification, drawings and other documents; the local conditions under which the work is to be performed; satisfied himself of the conditions of delivery, handling and storage of materials and equipment; and all other matters that will be required for the work before submitting a proposal. In submitting a proposal the undersigned further understands that the work required is to provide construction of the project that functions as described in the specification. The undersigned understands that all requirements of the construction may not be described in every detail and agrees to provide labor, tools, material and equipment necessary to complete all construction to make the fence functional as described in the specification and drawings before submitting a proposal.

The undersigned agrees, if this proposal is accepted, to furnish any and all items/services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specification. The period for acceptance of this Proposal will be ninety (90) calendar days unless a different period is noted.

The undersigned affirms that they are duly authorized to execute this contract, that this RFP has not been prepared in collusion with any other Proposer, nor any employee of the City of Denton, and that the contents of this RFP have not been communicated to any other proposer or to any employee of the City of Denton prior to the official opening of this bid.

Respondent hereby assigns to the City any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

The undersigned affirms that they have read and do understand the specifications and any attachments contained in this RFP package.

The undersigned agrees that the RFP posted on the website are the official specifications and shall not alter the electronic copy of the specifications and/or pricing sheet (Exhibit 1), without clearly identifying changes.

The undersigned understands they will be responsible for monitoring the City of Denton Purchasing Website at: <http://www.cityofdenton.com/index.aspx?page=397> to ensure they have downloaded and signed all addendum(s) required for submission with their proposal.

I certify that I have made no willful misrepresentations in this Proposal Submission, nor have I withheld information in my statements and answers to questions. I am aware that the information given by me in this proposal will be investigated, with my full permission, and that any misrepresentations or omissions may cause my proposal to be rejected.

Acknowledge receipt of following addenda to the proposal:

Addendum No 1 Dated 1-31-14  
Addendum No 2 Dated \_\_\_\_\_  
Addendum No 3 Dated \_\_\_\_\_

Received   
Received \_\_\_\_\_  
Received \_\_\_\_\_

NAME AND ADDRESS OF COMPANY:

Durable Specialties, Inc  
PO Box 535969  
Grand Prairie, Tx 75053

AUTHORIZED REPRESENTATIVE:

Signature   
Date 1-6-14  
Name Patrick C Bryan  
Title Vice-President  
Fax No. 972-780-7411

Tel. No. 972-296-6324  
Email. Patrick@durablepecialties.com

## EXHIBIT 1

Exhibit "F"  
Respondent's Name: **Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
1	840	LF	Trench 2" PVC Schedule 80	Furnish and Install	\$ 10.00	\$ 8,400.00
2	1,700	LF	Trench 2" PVC Schedule 40	Furnish and Install	\$ 9.00	\$ 15,300.00
3	900	LF	Trench 3" PVC Schedule 40	Furnish and Install	\$ 11.00	\$ 9,900.00
4	1,820	LF	Trench 4" PVC Schedule 40	Furnish and Install	\$ 10.00	\$ 18,200.00
5	460	LF	Trench 6" PVC Schedule 40	Furnish and Install	\$ 17.00	\$ 7,820.00
6	600	LF	Directional bore 2" PVC Schedule 80	Furnish and Install	\$ 21.00	\$ 12,600.00
7	600	LF	Directional bore 2" PVC Schedule 40	Furnish and Install	\$ 20.00	\$ 12,000.00
8	1,650	LF	Directional bore 3" PVC Schedule 40	Furnish and Install	\$ 20.00	\$ 33,000.00
9	1,650	LF	Directional bore 4" PVC Schedule 40	Furnish and Install	\$ 21.00	\$ 34,650.00
10	500	LF	Directional bore 6" PVC Schedule 40	Furnish and Install	\$ 30.00	\$ 15,000.00
11	160	LF	Rigid Metallic Conduit (RM) 1"	Furnish and Install	\$ 12.00	\$ 1,920.00
12	160	LF	Rigid Metallic Conduit (RM) 1.5"	Furnish and Install	\$ 14.00	\$ 2,240.00
13	210	LF	Rigid Metallic Conduit (RM) 2"	Furnish and Install	\$ 15.00	\$ 3,150.00
14	320	LF	Rigid Metallic Conduit (RM) 3"	Furnish and Install	\$ 23.00	\$ 7,360.00
15	320	LF	Rigid Metallic Conduit (RM) 4"	Furnish and Install	\$ 25.00	\$ 8,000.00
16	24	EA	Rigid Metallic Conduit (RM) various sizes on timber poles	Remove	\$ 100.00	\$ 2,400.00
17	12	EA	Ground box Type B with apron	Furnish and Install	\$ 780.00	\$ 9,360.00
18	12	EA	Ground box (city supplied box only) Type B with apron	Furnish and Install	\$ 600.00	\$ 7,200.00
19	40	EA	Ground box Type D with apron	Furnish and Install	\$ 800.00	\$ 32,000.00
20	40	EA	Ground box (city supplied box only) Type D with apron	Furnish and Install	\$ 600.00	\$ 24,000.00
21	48	EA	Ground box with apron	Remove	\$ 100.00	\$ 4,800.00
22	4	EA	Traffic signal cabinet with terminations (pad mounted) no concrete or base	Install	\$ 7,500.00	\$ 30,000.00
23	10	EA	Traffic signal cabinet breakaway base and concrete pad (8'x9'x6")	Furnish and Install	\$ 2,400.00	\$ 24,000.00
24	3	EA	Traffic signal cabinet concrete pad (8'x9'x6")	Furnish and Install	\$ 2,100.00	\$ 6,300.00
25	4	EA	Traffic signal cabinet (pad mounted) with base	Remove	\$ 500.00	\$ 2,000.00
26	4	EA	Traffic signal cabinet (pad mounted) with base and concrete pad	Remove	\$ 900.00	\$ 3,600.00
27	3	EA	Traffic signal cabinet concrete pad	Remove	\$ 400.00	\$ 1,200.00
28	10	EA	Battery backup unit (BBU) external cabinet on traffic signal cabinet	Install	\$ 600.00	\$ 6,000.00
29	2	EA	Meter pedestal service with terminations (pad mounted) no concrete pad	Install	\$ 2,000.00	\$ 4,000.00
30	10	EA	Meter pedestal service with terminations (pad mounted) with concrete pad	Furnish and Install	\$ 5,000.00	\$ 50,000.00

## EXHIBIT 1

Respondent's Name: **Exhibit "F"**  
**Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
31	2	EA	Meter pedestal service concrete pad	Furnish and Install	\$ 900.00	\$ 1,800.00
32	4	EA	Meter pedestal electrical service and concrete pad	Remove	\$ 500.00	\$ 2,000.00
33	4	EA	Electrical service, overhead	Remove	\$ 500.00	\$ 2,000.00
34	320	LF	24-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 175.00	\$ 56,000.00
35	48	LF	30-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 200.00	\$ 9,600.00
36	52	LF	36-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 225.00	\$ 11,700.00
37	72	LF	42-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 245.00	\$ 17,640.00
38	528	LF	48-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 275.00	\$ 145,200.00
39	12	EA	Signal pole foundation (18" below ground minimum)	Remove	\$ 500.00	\$ 6,000.00
40	16	EA	Long Mast Arm (Assembly) with 50'-65' mast arm	Install	\$ 1,800.00	\$ 28,800.00
41	4	EA	Long Mast Arm (Assembly) with 50'-65' mast arm, no luminaire or ILSN arm	Install	\$ 900.00	\$ 3,600.00
42	6	EA	Long Mast Arm Pole	Install	\$ 900.00	\$ 5,400.00
43	6	EA	Long Mast Arm 50'-65'	Install	\$ 900.00	\$ 5,400.00
44	8	EA	Long Mast Arm (Assembly) with 50'-65' mast arm	Remove	\$ 1,100.00	\$ 8,800.00
45	8	EA	Long Mast Arm 50'-65'	Remove	\$ 600.00	\$ 4,800.00
46	8	EA	Single Mast Arm (Assembly) with 36'-48' mast arm	Install	\$ 1,200.00	\$ 9,600.00
47	4	EA	Single Mast Arm (Assembly) with 36'-48' mast arm, no luminaire or ILSN arm	Install	\$ 650.00	\$ 2,600.00
48	4	EA	Single Mast Arm Pole (for a 36'-48' arm)	Install	\$ 650.00	\$ 2,600.00
49	4	EA	Single Mast Arm 36'-48'	Install	\$ 650.00	\$ 2,600.00
50	8	EA	Single Mast Arm (Assembly) with a 36'-48' mast arm	Remove	\$ 900.00	\$ 7,200.00
51	8	EA	Single Mast Arm 36'-48'	Remove	\$ 450.00	\$ 3,600.00
52	2	EA	Single Mast Arm (Assembly) with 20'-32' mast arm	Install	\$ 1,100.00	\$ 2,200.00
53	2	EA	Single Mast Arm (Assembly) with 20'-32' mast arm, no luminaire or ILSN arm	Install	\$ 1,100.00	\$ 2,200.00
54	2	EA	Single Mast Arm Pole (for a 20'-32' arm)	Install	\$ 550.00	\$ 1,100.00
55	2	EA	Single Mast Arm 20'-32'	Install	\$ 550.00	\$ 1,100.00
56	4	EA	Single Mast Arm (Assembly) with a 20'-32' mast arm	Remove	\$ 500.00	\$ 2,000.00
57	4	EA	Single Mast Arm 20'-32'	Remove	\$ 500.00	\$ 2,000.00
58	4	EA	Strain Pole (Assembly), 34'	Install	\$ 800.00	\$ 3,200.00
59	2	EA	Strain Pole (Assembly), 34', no luminaire or ILSN arms	Install	\$ 800.00	\$ 1,600.00
60	4	EA	Strain Pole (Assembly)	Remove	\$ 400.00	\$ 1,600.00

## EXHIBIT 1

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

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**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
61	16	EA	Luminaire Arm 8-10'	Install	\$ 150.00	\$ 2,400.00
62	24	EA	Luminaire Arm 25'	Install	\$ 200.00	\$ 4,800.00
63	40	EA	ILSN Arm 7'-9'	Install	\$ 100.00	\$ 4,000.00
64	4	EA	Luminaire Arm	Remove	\$ 50.00	\$ 200.00
65	4	EA	ILSN Arm	Remove	\$ 50.00	\$ 200.00
66	12	EA	50', Class 1 timber pole	Install	\$ 775.00	\$ 9,300.00
67	2	EA	50', Class 1 timber pole	Furnish and Install	\$ 1,800.00	\$ 3,600.00
68	4	EA	50', Class 1, timber pole assembly, one anchor design	Furnish and Install	\$ 2,100.00	\$ 8,400.00
69	16	EA	50', Class 1, timber pole assembly, two anchor design	Furnish and Install	\$ 2,400.00	\$ 38,400.00
70	8	EA	Timber pole anchor assembly	Furnish and Install	\$ 275.00	\$ 2,200.00
71	4	EA	Timber pole (entire pole)	Remove	\$ 375.00	\$ 1,500.00
72	4	EA	Timber pole (18" below ground)	Remove	\$ 375.00	\$ 1,500.00
73	8	EA	5-section signal head assembly	Install	\$ 700.00	\$ 5,600.00
74	20	EA	5-section (cluster) signal head assembly	Install	\$ 700.00	\$ 14,000.00
75	36	EA	4-section signal head assembly	Install	\$ 575.00	\$ 20,700.00
76	72	EA	3-section signal head assembly	Install	\$ 450.00	\$ 32,400.00
77	8	EA	5-section (city supplied) signal head (pole mounted)	Furnish and Install	\$ 850.00	\$ 6,800.00
78	20	EA	5-section (cluster) (city supplied) signal head (pole mounted)	Furnish and Install	\$ 950.00	\$ 19,000.00
79	64	EA	4-section (city supplied) signal head (pole mounted)	Furnish and Install	\$ 750.00	\$ 48,000.00
80	72	EA	3-section (city supplied) signal head (pole mounted)	Furnish and Install	\$ 650.00	\$ 46,800.00
81	8	EA	5-section (city supplied) signal head (span mounted)	Furnish and Install	\$ 1,100.00	\$ 8,800.00
82	8	EA	5-section (cluster) (city supplied) signal head (span mounted)	Furnish and Install	\$ 1,100.00	\$ 8,800.00
83	16	EA	4-section (city supplied) signal head (span mounted)	Furnish and Install	\$ 1,000.00	\$ 16,000.00
84	48	EA	3-section (city supplied) signal head (span mounted)	Furnish and Install	\$ 850.00	\$ 40,800.00
85	48	EA	Signal head assembly	Remove	\$ 150.00	\$ 7,200.00
86	20	EA	Regulatory sign	Install	\$ 70.00	\$ 1,400.00
87	48	EA	Regulatory sign (city supplied) (pole mounted)	Furnish and Install	\$ 100.00	\$ 4,800.00
88	36	EA	Regulatory sign (city supplied) (span mounted)	Furnish and Install	\$ 235.00	\$ 8,460.00
89	4	EA	Street name sign	Install	\$ 140.00	\$ 560.00
90	4	EA	Street name sign (city supplied) (pole mounted)	Furnish and Install	\$ 200.00	\$ 800.00
91	4	EA	Street name sign (city supplied) (span mounted)	Furnish and Install	\$ 300.00	\$ 1,200.00
92	24	EA	Sign (Regulatory/Street name)	Remove	\$ 70.00	\$ 1,680.00
93	40	EA	ILSN Sign 6'	Install	\$ 300.00	\$ 12,000.00

## EXHIBIT 1

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

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**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
94	12	EA	ILSN Sign 6'	Remove	\$ 200.00	\$ 2,400.00
95	40	EA	Luminaire head	Install	\$ 70.00	\$ 2,800.00
96	4	EA	Luminaire head	Remove	\$ 70.00	\$ 280.00
97	40	EA	Wind dampener (city supplied sign) for mast arm	Furnish and Install	\$ 250.00	\$ 10,000.00
98	4	EA	Wind dampener for mast arm	Remove	\$ 70.00	\$ 280.00
99	8	EA	VIVIDS (video detection camera)	Install	\$ 250.00	\$ 2,000.00
100	12	EA	Pan/Tilt/Zoom camera (PTZ)	Install	\$ 250.00	\$ 3,000.00
101	20	EA	Advance radar detection	Install	\$ 350.00	\$ 7,000.00
102	40	EA	Presence radar detection	Install	\$ 350.00	\$ 14,000.00
103	20	EA	Opticom detector	Install	\$ 200.00	\$ 4,000.00
104	10	EA	Wireless radio with antenna(s)	Install	\$ 200.00	\$ 2,000.00
105	2	EA	Spread Spectrum Radio (SSR) antenna	Install	\$ 125.00	\$ 250.00
106	12	EA	VIVIDS (video detection camera)	Remove	\$ 125.00	\$ 1,500.00
107	4	EA	Pan/Tilt/Zoom camera (PTZ)	Remove	\$ 125.00	\$ 500.00
108	4	EA	Advance radar detection	Remove	\$ 125.00	\$ 500.00
109	8	EA	Presence radar detection	Remove	\$ 125.00	\$ 1,000.00
110	8	EA	Opticom detector	Remove	\$ 125.00	\$ 1,000.00
111	4	EA	Wireless radio with antenna(s)	Remove	\$ 125.00	\$ 500.00
112	4	EA	Spread Spectrum Radio (SSR) antenna	Remove	\$ 60.00	\$ 240.00
113	2	EA	Roadside flasher beacon assembly (solar powered)	Install	\$ 2,500.00	\$ 5,000.00
114	2	EA	Roadside flasher beacon assembly	Remove	\$ 650.00	\$ 1,300.00
115	48	EA	Pedestrian head with LED insert on metal pole	Install	\$ 255.00	\$ 12,240.00
116	32	EA	Pedestrian head with LED insert on timber pole	Install	\$ 500.00	\$ 16,000.00
117	48	EA	Pedestrian button station assembly on metal pole	Install	\$ 70.00	\$ 3,360.00
118	32	EA	Pedestrian button station assembly on timber pole	Install	\$ 125.00	\$ 4,000.00
119	24	EA	Pedestrian push button pole assembly	Install	\$ 375.00	\$ 9,000.00
120	36	EA	Pedestrian push button pole assembly with 4' pole	Furnish and Install	\$ 725.00	\$ 26,100.00
121	12	EA	Pedestrian push button pole assembly with 16' pole	Furnish and Install	\$ 1,200.00	\$ 14,400.00
122	24	EA	Pedestrian head	Remove	\$ 125.00	\$ 3,000.00
123	24	EA	Pedestrian button station	Remove	\$ 60.00	\$ 1,440.00
124	8	EA	Pedestrian push button pole assembly	Remove	\$ 255.00	\$ 2,040.00
125	600	LF	Zinc-coat steel wire strand (3/16 in)	Furnish and install	\$ 2.00	\$ 1,200.00
126	1,600	LF	Zinc-coat steel wire strand (1/4 in)	Furnish and install	\$ 2.00	\$ 3,200.00

## EXHIBIT 1

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

### RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS

The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.

#### Product Proposal Pricing:

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
127	600	LF	Zinc-coat steel wire strand (5/16 in)	Furnish and install	\$ 2.00	\$ 1,200.00
128	6,800	LF	Zinc-coat steel wire strand (3/8 in)	Furnish and install	\$ 2.00	\$ 13,600.00
129	1,200	LF	Zinc-coat steel wire strand	Remove	\$ 1.00	\$ 1,200.00
130	2	EA	Entire mast arm pole intersection, 3 pole design	Remove	\$ 2,100.00	\$ 4,200.00
131	2	EA	Entire mast arm pole intersection, 4 pole design	Remove	\$ 2,700.00	\$ 5,400.00
132	1	EA	Entire timber pole intersection, 3 pole design	Remove	\$ 1,390.00	\$ 1,390.00
133	2	EA	Entire timber pole intersection, 4 pole design	Remove	\$ 1,800.00	\$ 3,600.00
134	14,200	LF	Traffic Signal Cable (Type A) 14 AWG (7 conductor)	Furnish and Install	\$ 1.00	\$ 14,200.00
135	400	LF	Traffic Signal Cable (Type A) 14 AWG (9 conductor)	Furnish and Install	\$ 1.00	\$ 400.00
136	400	LF	Traffic Signal Cable (Type A) 14 AWG (10 conductor)	Furnish and Install	\$ 2.00	\$ 800.00
137	4,800	LF	Traffic Signal Cable (Type A) 14 AWG (21 conductor)	Furnish and Install	\$ 3.00	\$ 14,400.00
138	4,800	LF	Traffic Signal Cable (Type A) 14 AWG (25 conductor)	Furnish and Install	\$ 3.50	\$ 16,800.00
139	300	LF	Traffic Signal Cable (Type C) 12 AWG (2 conductor)	Furnish and Install	\$ 1.00	\$ 300.00
140	300	LF	Traffic Signal Cable (Type C) 14 AWG (2 conductor)	Furnish and Install	\$ 1.00	\$ 300.00
141	300	LF	Traffic Signal Cable (Type C) 18 AWG (2 conductor)	Furnish and Install	\$ 1.00	\$ 300.00
142	950	LF	Electric conductor stranded (No. 4 AWG) insulated	Furnish and Install	\$ 2.00	\$ 1,900.00
143	200	LF	Electric conductor stranded (No. 4 AWG) bare	Furnish and Install	\$ 2.00	\$ 400.00
144	600	LF	Electric conductor stranded (No. 6 AWG) insulated	Furnish and Install	\$ 1.00	\$ 600.00
145	200	LF	Electric conductor stranded (No. 6 AWG) bare	Furnish and Install	\$ 1.00	\$ 200.00
146	200	LF	Electric conductor solid (No. 6 AWG) bare	Furnish and Install	\$ 1.00	\$ 200.00
147	325	LF	Electric conductor stranded (No. 8 AWG) insulated	Furnish and Install	\$ 1.00	\$ 325.00
148	125	LF	Electric conductor stranded (No. 8 AWG) bare	Furnish and Install	\$ 1.00	\$ 125.00
149	4,600	LF	Tray Cable 12 AWG (3 conductor)	Furnish and Install	\$ 1.00	\$ 4,600.00
150	4,600	LF	Tray Cable 14 AWG (3 conductor)	Furnish and Install	\$ 1.00	\$ 4,600.00
151	720	LF	Tray Cable 16 AWG (3 conductor)	Furnish and Install	\$ 1.00	\$ 720.00
152	450	LF	Tray Cable 12 AWG (4 conductor)	Furnish and Install	\$ 1.00	\$ 450.00
153	320	LF	Tray Cable 14 AWG (4 conductor)	Furnish and Install	\$ 1.00	\$ 320.00
154	2,400	LF	GTT Opticom System Cable 20 AWG (3 conductor) black sheilded	Furnish and Install	\$ 1.00	\$ 2,400.00
155	1,000	LF	Belden 7919A Cat 5E black sheilded or equal	Furnish and Install	\$ 3.50	\$ 3,500.00
156	1,500	LF	Multiconductor cable (1/4" O.D. and smaller )	Install	\$ 1.00	\$ 1,500.00
157	1,800	LF	Multiconductor cable (5/16" - 3/8" O.D.)	Install	\$ 1.00	\$ 1,800.00
158	1,200	LF	Multiconductor cable (7/16" - 5/8" O.D.)	Install	\$ 1.50	\$ 1,800.00
159	1,200	LF	Multiconductor cable (11/16" - 7/8" O.D.)	Install	\$ 1.50	\$ 1,800.00

**EXHIBIT 1**

**Exhibit "F"**  
Respondent's Name: **Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

*The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.*

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
160	1,500	LF	Single or multiconductor cable (1/4" O.D. and smaller )	Remove	\$ 0.50	\$ 750.00
161	1,500	LF	Single or multiconductor cable (5/16" - 3/8" O.D.)	Remove	\$ 0.50	\$ 750.00
162	1,500	LF	Single or multiconductor cable (7/16" - 5/8" O.D.)	Remove	\$ 0.50	\$ 750.00
163	1,500	LF	Single or multiconductor cable (11/16" - 7/8" O.D.)	Remove	\$ 0.50	\$ 750.00
<b>Total Cost of Products (Annual)</b>						<b>\$ 1,396,500.00</b>

**Additional Services**

Item	UOM	Product Description	Description 2	Unit Price
164	Hourly	Contractor Services Price Per Hour with Aerial Truck	This includes aerial & ground services	<b>\$200.00</b>
165	Hourly	Contractor Services Price Per Hour for span wire intersections	This includes aerial, ground, and span pole installation/removal services.	<b>\$400.00</b>
166	Hourly	Contractor Services Price Per Hour for mast arm pole intersections	This includes aerial, ground, and mast arm pole installation/removal services.	<b>\$400.00</b>
167	%	Mobilization	Percent of total purchase order amount (Smaller projects) not to exceed 15%	<b>10</b>
168	Ea	Mobilization per Intersection	For complete intersection builds	<b>\$2,500.00</b>
169	Days	Timeline to start Project	Scheduled time contractor can start a signal project in Denton after notice to proceed through a purchase order	<b>50</b>
170	Hrs	Arrival time to start Emergency Project	Emergency response for a contractor to repair/replace signals in Denton	<b>4</b>

**EXHIBIT 1****RFP #5442****Exhibit "F"  
Addendum # 1****GENERAL NOTES FOR BID LINE ITEMS:**

All materials shall be of the latest City of Denton / TXDOT specifications with their corresponding item codes

Install items shall be with city supplied materials unless otherwise noted on line item

Furnish and install items shall be with contractor supplied materials unless otherwise noted on line item

All bid line item installations shall be completed with terminations and fully operational after installation

Ground box, signal cabinet pad, and meter pedestal pad installations shall include conduit stub ups and tie-ins with bell ends at the end of each conduit.

Traffic signal cabinet base shall be Armorcast A6001848X24TXDT or a predetermined city approved equal.

Meter pedestal service shall be Electrol systems, TXDOT standard green powder coated aluminum type D pedestal, TYD 120/240 070 (NS)AL(E)PS(U): 1-50a/1p for traffic signal, 2-20a/1p for lighting, 1-15a/1p for control circuit, interior photo cell with windows, 30 amp lighting contactor, and HOA selector switch.

All mast arm or timber pole assemblies shall include pickup and delivery from and to job site in Denton unless contractor supplied.

Timber poles shall be creosote-treated southern yellow pine and shall be set using approved expanding foam method.

Furnish and Install timber pole assemblies include a one or two anchor design, and in each case, shall contain all connecting hardware for each strand wire support and each pole anchor guy. Some installations may include a guy spreader.

Timber pole anchors shall be set using Class C concrete and contain all guy cable and connecting hardware from anchor to timber pole.

Pedestrian head installations on timber poles shall include a NEMA type 3R junction box with a liquid tight conduit to each pedestrian head and associated mounting hardware.

Pedestrian push button station installations on timber poles shall include a liquid tight conduit to pedestrian head junction box with associated mounting hardware.

Pedestrian push button pole assembly furnish and installs shall contain Peico parts consisting of 1 EA: PB-5335-GL-PNC, PB-5306, PB-5325, PB-5401, AND PB-5100

**EXHIBIT 1**

**RFP #5442**

**Exhibit "F"  
Addendum # 1**

**GENERAL NOTES FOR BID LINE ITEMS:**

Rigid metallic (RM) conduit shall contain appropriate weather head and mounting hardware.

Salvage existing traffic signals and equipment as shown on plans and as directed by the City of Denton. Removal of each intersection shall include all above and below ground traffic signal related items except for electrical services. Conduit stub ups and concrete foundations must be removed 18" below ground and then can be abandoned. ADA ramps and pavement markings are excluded.

Wind dampener (dampening plate) only will be supplied by the city; all other mounting hardware shall be provided and installed by the contractor.

Traffic signal pole foundation anchor bolts will be supplied by the city at time of foundation installation.

Long and single mast arm assemblies will contain a vertical pole assembly, a mast arm, a luminaire arm, an ILSN arm, and an anchor bolt base cover.

Strain pole assemblies will contain the vertical pole, a luminaire arm, an ILSN arm, and an anchor bolt base cover.

Install signal head items shall include labor only for a complete assembly using LEDs, visors, backplates, and mounting hardware.

Furnish and Install signal head items shall include labor only except for contractor supplied Pelco AS-0125/AS-0138 signal head mounting hardware for pole mount or SP-3058-TX-ALO/AS-0138 signal head mounting hardware for span mount.

Furnish and Install Regulatory and Street name sign items shall be a city supplied sign and line item cost will only include the sign's mounting hardware and labor.

Timeline to complete each workorder, after notice to proceed through a purchase order, will be 30 working days for a 4 pole intersection, and 45 days for a 6 pole intersection.

City supplied materials to signal contractor that will need to be programmed for signal operation, will be the responsibility of the City of Denton. Installation/mounting and mounting adjustments of such items will be a pay item to the signal contractor.

**EXHIBIT 1**

**Exhibit "F"**

**Texas Franchise Tax Public Information Report**



05-102  
(Rev. 9-11/30)

To be filed by Corporations, Limited Liability Companies (LLC) and Financial Institutions  
This report **MUST** be signed and filed to satisfy franchise tax requirements

Code 13196 Franchise

■ Taxpayer number

■ Report year

*You have certain rights under Chapter 552 and 559, Government Code, to review, request, and correct information we have on file about you. Contact us at (800) 252-1381 or (512) 463-4600.*

1 7 5 1 9 6 3 4 5 9 0

2 0 1 3

Taxpayer name <b>DURABLE SPECIALTIES, INC.</b>					Secretary of State (SOS) file number or Comptroller file number  <b>0070837900</b>
Mailing address <b>PO BOX 535969</b>					
City <b>GRAND PRAIRIE</b>	State <b>TX</b>	ZIP Code <b>75053</b>	Plus 4		

Blacken circle if there are currently no changes from previous year; if no information is displayed, complete the applicable information in Sections A, B and C.

Principal office <b>2302 Paddock Way Dr. Grand Prairie, Texas 75050</b>
Principal place of business <b>2302 Paddock Way Dr. Grand Prairie, Texas 75050</b>

*Please sign below!*

Officer, director and manager information is reported as of the date a Public Information Report is completed. The information is updated annually as part of the franchise tax report. There is no requirement or procedure for supplementing the information as officers, directors, or managers change throughout the year.



**SECTION A** Name, title and mailing address of each officer, director or manager.

1751963459013

Name <b>CAROL RICHTER</b>	Title <b>TREASURER</b>	Director <input type="radio"/> YES	Term expiration m m d d y y <b>1 2 3 1 1 5</b>
Mailing address <b>PO BOX 535969</b>	City <b>GRAND PRAIRIE</b>	State <b>TX</b>	ZIP Code <b>75053</b>
Name <b>Jennifer A Warnack</b>	Title <b>VP Finance</b>	Director <input type="radio"/> YES	Term expiration m m d d y y <b>1 2 3 1 1 5</b>
Mailing address <b>PO Box 535969</b>	City <b>Grand Prairie</b>	State <b>TX</b>	ZIP Code <b>75053</b>
Name	Title	Director <input type="radio"/> YES	Term expiration m m d d y y
Mailing address	City	State	ZIP Code

**SECTION B** Enter the information required for each corporation or LLC, if any, in which this entity owns an interest of 10 percent or more.

Name of owned (subsidiary) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of ownership
Name of owned (subsidiary) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of ownership

**SECTION C** Enter the information required for each corporation or LLC, if any, that owns an interest of 10 percent or more in this entity or limited liability company.

Name of owned (parent) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of ownership
---	--------------------	-------------------------------	-------------------------

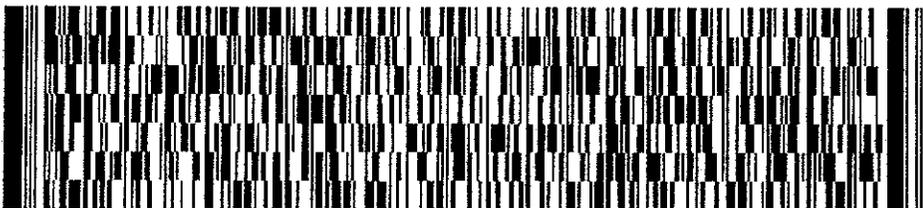
Registered agent and registered office currently on file. (see instructions if you need to make changes)			
Agent: <b>JEFFREY C BRYAN</b>	<input type="radio"/> Blacken circle if you need forms to change the registered agent or registered office information.		
Office: <b>5208 BYERS AVENUE</b>	City: <b>FORT WORTH</b>	State: <b>TX</b>	ZIP Code: <b>76107</b>

The above information is required by Section 171.203 of the Tax Code for each corporation or limited liability company that files a Texas Franchise Tax Report. Use additional sheets for Sections A, B, and C, if necessary. The information will be available for public inspection.

I declare that the information in this document and any attachments is true and correct to the best of my knowledge and belief, as of the date below, and that a copy of this report has been mailed to each person named in this report who is an officer, director or manager and who is not currently employed by this, or a related, corporation or limited liability company.

sign here) <b>CAROL A RICHTER</b>	Title <b>Electronic</b>	Date <b>08-12-2013</b>	Area code and phone number <b>( 972 ) 296 - 6324</b>
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**Texas Comptroller Official Use Only**



VE/DE	<input type="radio"/>	PIR IND	<input type="radio"/>
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**EXHIBIT 1**

**ATTACHMENT G**

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
<b>For vendor or other person doing business with local governmental entity</b>		<b>OFFICE USE ONLY</b>
<b>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.</b>		
<p>This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).</p> <p>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 person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>		
<b>1</b>	Name of person who has a business relationship with local governmental entity.	
<b>2</b>	<input type="checkbox"/> 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 7 <sup>th</sup> business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)	
<b>3</b>	Name of local government officer with whom filer has an employment or business relationship.  <div style="text-align: center; border-top: 1px solid black; width: 30%; margin: 0 auto;">Name of Officer</div> <p>This section, (item 3 including subparts A, B, C &amp; D), must be completed for each officer with whom the filer 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.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>B. Is the filer of the questionnaire 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?  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>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 10 percent or more?  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>D. Describe each affiliation or business relationship.</p>	
<b>4</b>	<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; border-top: 1px solid black; text-align: center;">Signature of person doing business with the governmental entity</div> <div style="width: 45%; border-top: 1px solid black; text-align: center;">Date</div> </div>	

**EXHIBIT 1**

# EXHIBIT 1



## Certificate Of Completion

Envelope Id: AC6491CE154F495BAE0EB3556CC431C8	Status: Completed	
Subject: Please DocuSign: 5442 - Contract Amendment #2.pdf		
Source Envelope:		
Document Pages: 120	Signatures: 2	Envelope Originator:
Supplemental Document Pages: 0	Initials: 0	Jody Word
Certificate Pages: 5		
AutoNav: Enabled	Payments: 0	jody.word@cityofdenton.com
Envelopeld Stamping: Enabled		IP Address: 129.120.6.150
Time Zone: (UTC-08:00) Pacific Time (US & Canada)		

## Record Tracking

Status: Original 4/13/2017 7:00:13 AM	Holder: Jody Word jody.word@cityofdenton.com	Location: DocuSign
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## Signer Events

Patrick Bryan  
Patrick@durablespecialties.com  
VP of Operations  
Durable Specialties, Inc.  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
Accepted: 4/14/2017 4:26:21 AM  
ID: 8d39e99b-22ca-4c12-888d-e0bc8ccdfdf

## Signature

DocuSigned by:  
*Patrick Bryan*  
A7123D0849E84D7...  
Using IP Address: 50.84.141.26

## Timestamp

Sent: 4/13/2017 7:22:54 AM  
Viewed: 4/14/2017 4:26:21 AM  
Signed: 4/14/2017 4:26:35 AM

Jody Word  
jody.word@cityofdenton.com  
Buyer  
City of Denton  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
Not Offered via DocuSign  
ID:

DocuSigned by:  
*Jody Word*  
296E603A17BB493...  
Using IP Address: 129.120.6.150

Sent: 4/14/2017 4:26:37 AM  
Viewed: 4/14/2017 6:38:26 AM  
Signed: 4/14/2017 6:38:56 AM

## In Person Signer Events

## Signature

## Timestamp

## Editor Delivery Events

## Status

## Timestamp

## Agent Delivery Events

## Status

## Timestamp

## Intermediary Delivery Events

## Status

## Timestamp

## Certified Delivery Events

## Status

## Timestamp

## Carbon Copy Events

## Status

## Timestamp

Julia Winkley  
julia.winkley@cityofdenton.com  
Contracts Administration Supervisor  
City of Denton  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
Not Offered via DocuSign  
ID:

**COPIED**

Sent: 4/14/2017 6:38:58 AM

# EXHIBIT 1

Carbon Copy Events	Status	Timestamp
Melissa Hedgepeth Melissa@durablespecialties.com Administrative Asst Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:	<b>COPIED</b>	Sent: 4/14/2017 6:38:59 AM Viewed: 4/14/2017 6:52:30 AM

Notary Events	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	4/14/2017 6:38:59 AM
Certified Delivered	Security Checked	4/14/2017 6:38:59 AM
Signing Complete	Security Checked	4/14/2017 6:38:59 AM
Completed	Security Checked	4/14/2017 6:38:59 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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## EXHIBIT 1

### **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

#### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

#### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

#### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

#### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

## EXHIBIT 1

### **How to contact City of Denton:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: kevin.gunn@cityofdenton.com

### **To advise City of Denton of your new e-mail address**

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at kevin.gunn@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

### **To request paper copies from City of Denton**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to kevin.gunn@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with City of Denton**

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to kevin.gunn@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"><li>•Allow per session cookies</li><li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li></ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

## EXHIBIT 1

### **Acknowledging your access and consent to receive materials electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

**EXHIBIT 1**

THE STATE OF TEXAS            §  
  §  
COUNTY OF DENTON           §

FIRST AMENDMENT TO CONTRACT  
BY AND BETWEEN THE CITY OF DENTON, TEXAS  
AND DURABLE SPECIALTIES, INC.  
RFP NO. 5442

THIS FIRST AMENDMENT TO CONTRACT 5442 (“Amendment”) by and between the City of Denton, Texas (“City”) and Durable Specialties, Inc. (“Supplier”);

The CITY deems it necessary to further expand the goods/services provided by SUPPLIER to the CITY;

NOW THEREFORE,

1. Exhibit B “Special Terms and Conditions”, **Total Contract Amount** of the Agreement is hereby amended to read as follows:

“Total Contract Amount for services shall not exceed \$4,500,000 per term. Pricing shall be per Exhibit C attached, the contract amount remains the same.

2. Exhibit A “City of Denton Request for Proposal”, of the contract we are wanting to extend this contract for additional six (6) months which will be extended till **October 1, 2017**”

All other provisions of the contract 5442, as heretofore amended, remain in full force and effect.

IN WITNESS WHEREOF, the CITY and the SUPPLIER, have each executed this Amendment, by and through their respective duly authorized representatives and officers on this the \_\_\_\_\_ day of 3/16/2017, 2017.

**EXHIBIT 1**

“CITY”

CITY OF DENTON, TEXAS  
A Texas Municipal Corporation

By: DocuSigned by:  
Elton Brock  
4E9FEBACE935410  
ELTON BROCK  
PURCHASING MANAGER

“SUPPLIER”

DURABLE SPECIALTIES, INC.  
A Corporation

By: DocuSigned by:  
Patrick Bryan  
A7123D0849E84D7 3/16/2017  
AUTHORIZED SIGNATURE, TITLE

# EXHIBIT 1



## Certificate Of Completion

Envelope Id: 1065C76FEAD84D4A952D4FB823D1F7B1  
Subject: 5442-Construction of Traffic Intersections with Durable Specilities Inc. - Amendment #1  
Source Envelope:  
Document Pages: 2  
Supplemental Document Pages: 0  
Certificate Pages: 5  
AutoNav: Enabled  
Envelopeld Stamping: Enabled  
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Status: Completed  
Envelope Originator:  
Jody Word  
jody.word@cityofdenton.com  
IP Address: 129.120.6.150

## Record Tracking

Status: Original  
3/10/2017 9:28:11 AM  
Holder: Jody Word  
jody.word@cityofdenton.com  
Location: DocuSign

## Signer Events

Patrick Bryan  
Patrick@durablespecialties.com  
VP of Operations  
Security Level: Email, Account Authentication (Optional)

## Signature

DocuSigned by:  
*Patrick Bryan*  
A7123D0849E84D7...  
Using IP Address: 50.84.141.26

## Timestamp

Sent: 3/10/2017 9:37:20 AM  
Resent: 3/14/2017 8:33:22 AM  
Resent: 3/15/2017 2:30:40 PM  
Viewed: 3/16/2017 3:40:14 AM  
Signed: 3/16/2017 3:40:27 AM

Electronic Record and Signature Disclosure:  
Accepted: 3/16/2017 3:40:14 AM  
ID: 293fd9f5-7526-4a07-a4fb-9aab3691c32e

Elton Brock  
elton.brock@cityofdenton.com  
Purchasing Manager  
City of Denton  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
Not Offered via DocuSign  
ID:

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*Elton Brock*  
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Sent: 3/16/2017 3:40:28 AM  
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Signed: 3/16/2017 6:52:22 AM

## In Person Signer Events

## Signature

## Timestamp

## Editor Delivery Events

## Status

## Timestamp

## Agent Delivery Events

## Status

## Timestamp

## Intermediary Delivery Events

## Status

## Timestamp

## Certified Delivery Events

## Status

## Timestamp

## Carbon Copy Events

## Status

## Timestamp

Jody Word  
jody.word@cityofdenton.com  
Buyer  
City of Denton  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
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ID:

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## Carbon Copy Events

### Status

### Timestamp

Julia Winkley  
julia.winkley@cityofdenton.com  
Contracts Administration Supervisor  
City of Denton  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
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Mark Nelson  
mark.nelson@cityofdenton.com  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
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Scott Wilson  
scott.wilson@cityofdenton.com  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
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## Notary Events

### Timestamp

## Envelope Summary Events

### Status

### Timestamps

Envelope Sent	Hashed/Encrypted	3/16/2017 6:52:26 AM
Certified Delivered	Security Checked	3/16/2017 6:52:26 AM
Signing Complete	Security Checked	3/16/2017 6:52:26 AM
Completed	Security Checked	3/16/2017 6:52:26 AM

## Payment Events

### Status

### Timestamps

## Electronic Record and Signature Disclosure

## EXHIBIT 1

Electronic Record and Signature Disclosure created on: 4/20/2015 7:25:38 AM

Parties agreed to: Patrick Bryan

### **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

#### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

#### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

#### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

#### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

## EXHIBIT 1

### How to contact City of Denton:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: kevin.gunn@cityofdenton.com

### To advise City of Denton of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at kevin.gunn@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

### To request paper copies from City of Denton

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to kevin.gunn@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

### To withdraw your consent with City of Denton

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to kevin.gunn@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"><li>•Allow per session cookies</li><li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li></ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

## EXHIBIT 1

### **Acknowledging your access and consent to receive materials electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

# EXHIBIT 1

**CONTRACT BY AND BETWEEN  
CITY OF DENTON, TEXAS AND DURABLE SPECIALTIES, INC.  
(RFP 5442)**

THIS CONTRACT is made and entered into this 1 day of April, 2014, by and between Durable Specialties, Inc. a corporation, whose address is 2302 Paddock Way Dr., Grand Prairie, TX 75050, hereinafter referred to as "Contractor," and the CITY OF DENTON, TEXAS, a Texas Municipal Corporation and Home-Rule City, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and the subsequent execution of this Contract by the Denton City Manager or his duly authorized designee.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

**SCOPE OF SERVICES**

Contractor shall provide construction services in accordance with the City's RFP # 5442, for Construction of Traffic Intersections, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes as "Exhibit A". The Contract consists of this written agreement and the following items which are attached hereto and incorporated herein by reference:

- (a) City of Denton Request for Proposal #5442 **in the office of the Purchasing Manager (Exhibit "A");**
- (b) City of Denton Standard Terms and Conditions **(Exhibit "B");**
- (c) Insurance Requirements **(Exhibit "C");**
- (d) Payment and Performance Bond **(Exhibit "D");**
- (e) Contractor's Pricing and Information **(Exhibit "F");**
- (f) Conflict of Interest **(Exhibit "G");**

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to this written Contract, and then to the contract documents in the sequential order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

EXHIBIT 1

IN WITNESS WHEREOF, the parties of these presents have executed this agreement in the year and day first above written.

“CONTRACTOR”

Durable Specialties, Inc.

ATTEST:

By: Jeffrey C. Bryan  
AUTHORIZED SIGNATURE

By: Melissa Hedgepeth

TYPED NAME: Jeffrey C. Bryan

TITLE: President

972-296-6324  
PHONE NUMBER

jeff@durable-specialties.com  
E-MAIL ADDRESS

CITY OF DENTON, TEXAS  
A Texas Municipal Corporation

By: George C. Campbell  
GEORGE C. CAMPBELL  
CITY MANAGER

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

By: Jane Richardson, Asst.

APPROVED AS TO LEGAL FORM:  
ANITA BURGESS, CITY ATTORNEY

By: Anita Burgess

**EXHIBIT 1**

**Exhibit "B"**

**CITY OF DENTON GENERAL CONDITIONS FOR BUILDING CONSTRUCTION  
ARTICLE 1 GENERAL PROVISIONS**

**GENERAL DEFINITIONS**

**1.1 The following definitions apply throughout these General Conditions and to the other Contract Documents:**

**a) THE CONTRACT DOCUMENTS**

The Contract Documents consist of the formal Building Construction Services Agreement between the Owner and the Contractor, these General Conditions and other supplementary conditions included by special provisions or addenda, drawings, specifications, addenda issued prior to execution of the Contract, other documents listed in the Contract, and Amendments issued after execution of the Contract. For purposes of these General Conditions, an Amendment is:

- (1) a written Supplemental Agreement to the Contract signed by authorized representatives of both parties;
- (2) a Change Order, including Change Orders signed only by the Owner as described in Subparagraph 7.1(b) and Subparagraph 7.1(e); or
- (3) a written order for a minor change in the Work issued by the Engineer as described in Paragraph 7.3.

The Contract Documents also include bid documents such as the Owner's Instructions to Bidders, sample forms, the Contractor's Bid Proposal and portions of addenda relating to any of these documents, and any other documents, exhibits or attachments specifically enumerated in the Building Construction Services Agreement, but specifically exclude geotechnical and subsurface reports that the Owner may have provided to the Contractor.

**b) THE CONTRACT**

The Contract Documents, as defined in Paragraph 1.1, are expressly incorporated into and made a part of the formal Building Construction Services Agreement between the Owner and the Contractor by reference in this Paragraph and Paragraph 1.1 (which documents are sometimes also referred to collectively in these General Conditions as the "Contract"). The Contract Documents represent the entire and integrated agreement between the Owner and the Contractor and supersede all prior negotiations, representations or agreements, either written or oral. The terms and conditions of the Contract Documents may be changed only by an Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind:

- (1) between the Engineer and Contractor;
- (2) between the Owner and a Subcontractor or Sub-subcontractor; or
- (3) between any persons or entities other than the Owner and Contractor.

The Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of the Engineer's duties.

**EXHIBIT 1****c) THE WORK**

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by the Contractor, or any Subcontractors, Sub-subcontractors, material suppliers, or any other entity for whom the Contractor is responsible, to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

**d) THE PROJECT**

The Project is the total construction more particularly described in the Building Construction Services Agreement, of which the Work performed under the Contract Documents may be the whole or a part of the Project and which may include construction by the Owner or by separate contractors. All references in these General Conditions to or concerning the Work or the site of the Work will use the term "Project," notwithstanding that the Work may only be a part of the Project.

**e) THE DRAWINGS**

The Drawings (also known as the "Plans") are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

**f) THE SPECIFICATIONS**

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, performance of related services, and other technical requirements.

**g) THE PROJECT MANUAL**

The Project Manual is the volume or volumes which contain the bidding requirements, sample forms, General Conditions for Building Construction, special provisions, and Specifications. The Project Manual may be modified by written addendums issued by the Owner during bidding, in which case the written addendums become a part of the Project Manual upon their issuance, unless otherwise indicated by the Owner in writing.

**h) ALTERNATE**

An Alternate is a variation in the Work on which the Owner requires a price separate from the City Building General Conditions Base Bid. If an Alternate is accepted by the Owner, the variation will become a part of the Contract through the execution of a change order or amendment to the Contract and the Base Bid will be adjusted to include the amount quoted. If an alternate is accepted by the Owner, and later deleted prior to any Work under the alternate being performed or materials delivered to the Project site, the Owner will be entitled to a credit in the full value of the alternate as priced in the Contractor's Bid.

**i) BASE BID**

The Base Bid is the price quoted for the Work before Alternates are considered.

**j) HAZARDOUS SUBSTANCE**

The term Hazardous Substance is defined to include the following:

- (1) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophyllite or actinolite, whether friable or non-friable;

## EXHIBIT 1

- (2) any polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids;
- (3) radon;
- (4) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste;
- (5) any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;
- (6) any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;
- (7) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and
- (8) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

### k) OTHER DEFINITIONS

As used in the Contract Documents, the following additional terms have the following meanings:

- (1) "provide" means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and other expenses to complete in place, ready for operation or use;
- (2) "shall" means the action of the party to which reference is being made is mandatory;
- (3) "as required" means as prescribed in the Contract Documents; and
- (4) "as necessary" means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes, and regulations.

## 1.2 EXECUTION, CORRELATION AND INTENT

## EXHIBIT 1

- (a) The Building Construction Services Agreement shall be signed by duly authorized representatives of the Owner and Contractor as provided in the Agreement.
- (b) Execution of the Building Construction Services Agreement by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions, including but not limited to subsurface conditions, under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.
- (c) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.
- (d) Organization of the Specifications into divisions, sections, and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.
- (e) Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.
- (f) The Drawings and Specifications are intended to agree with one another, and Work called for by Drawings and not mentioned in Specifications, or vice versa, shall be furnished as if set forth by both. Specifications shall govern materials, methods and quality of work. In the event of a conflict on the Drawings between scale and dimension, figured dimensions shall govern over scale dimensions and large scale drawings shall govern over small scale drawings. Conflict between two or more dimensions applying to a common point shall be referred to the Engineer for final adjustment. If discrepancies or conflicts occur within or between the Drawings and Specifications regarding the Work, or within or between other Contract Documents, the Contractor shall not perform such Work without having obtained a clarification from the Engineer and resolution by the Owner. The Owner's decision as to the appropriate resolution of a conflict or discrepancy shall be final. Should the Drawings or the Specifications disagree within themselves or with each other; the Base Bid will be based on the most expensive combination of quality and quantity of Work indicated.
- (g) Deviations from Contract Documents shall be made only after written approval is obtained from Engineer and Owner, as provided in Article 7.
- (h) The intention of the Contract Documents is to include all materials, labor, tools, equipment, utilities, appliances, accessories, services, transportation, and supervision required to completely perform the fabrication, erection and execution of the Work in its final position.
- (i) The most recently issued Drawing or Specification takes precedence over previous issues of the same Drawing or Specification. In the event of a conflict, the order of precedence of interpretation of the Contract Documents is as follows:
  - (1) Amendments (see Paragraph 7.2 for order of precedence between Amendments);
  - (2) the Building Construction Services Agreement;

## EXHIBIT 1

- (3) addenda, with those addenda of later date having precedence over those of an earlier date;
- (4) the Supplementary General Conditions and Special Provisions, if any;
- (5) the General Conditions for Building Construction;
- (6) the Specifications and Drawings.

### **1.3 OWNERSHIP AND USE OF ENGINEER'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

All Drawings, Specifications, and copies thereof furnished by the Engineer are and shall remain the property of the Owner and are, with the exception of the Contract set for each party, to be returned to the Owner upon request at the completion of the Work.

### **1.4 CAPITALIZATION**

Terms capitalized in these General Conditions include those which are:

- (1) specifically defined in these General Conditions (except the terms defined in Subparagraph 1.1(j), which terms are of common grammatical usage and are not normally capitalized);
- (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs, and Clauses;
- (3) the titles of other documents published or used by the Owner as manuals or official policy statements; or
- (4) proper nouns or other words required under standard grammatical rules to be capitalized.

## **ARTICLE 2 THE OWNER**

### **2.1 DEFINITION OF OWNER**

The Owner is the City of Denton, a Texas municipal corporation, and is identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representatives.

### **2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

- (a) The Owner shall furnish the most recent survey describing the physical characteristics, legal limits, utility locations, and a permanent benchmark for the site of the Project. The Owner shall also furnish any environmental site assessments that may have been given to the Owner or conducted for the property upon which the Project is to be constructed. THIS INFORMATION IS FURNISHED TO THE CONTRACTOR ONLY IN ORDER TO MAKE DISCLOSURE OF THIS MATERIAL AND FOR NO OTHER PURPOSE. BY FURNISHING THIS MATERIAL, THE OWNER DOES NOT REPRESENT, WARRANT, OR GUARANTEE ITS ACCURACY EITHER IN WHOLE, IN PART, IMPLICITLY OR EXPLICITLY, OR IN ANY OTHER WAY, AND THE OWNER SHALL HAVE NO LIABILITY FOR THIS MATERIAL.
- (b) Except for permits and fees which are provided for in Subparagraph 3.7(a), the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for

**EXHIBIT 1**

construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

- (c) Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work. It is incumbent upon the Contractor to identify, establish, and maintain a current schedule of latest dates for submittal and approval, as required in Paragraph 3.10, including when such information or services must be delivered. If Owner delivers the information or services to the Contractor as scheduled and Contractor is not prepared to accept or act on such information or services, then Contractor shall reimburse Owner for all extra costs incurred of holding, storage, or retention, including redeliveries by the Owner to comply with the current schedule.
- (d) Unless otherwise provided in the Contract Documents, the Contractor will be furnished electronic copies of the Drawings and Specifications for bid purposes and one hard copy approved by Building Inspections upon execution of the Contract. Contractor may obtain additional copies by paying the cost of additional printing or reproduction.
- (e) The obligations described above are in addition to other duties and responsibilities of the Owner enumerated in the Contract Documents and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).
- (f) The Owner shall forward all instructions to the Contractor through the Engineer, except for the Owner's Notice to Proceed and the Owner's decision to carry out Work as described in Paragraph 2.4.
- (g) The Owner's employees, agents, and consultants may be present at the Project site during performance of the Work to assist the Engineer in the performance of the Engineer's duties and to verify the Contractor's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, the equipment used in the performance of the Work, and for purpose of verification of Contractor's Applications for Payment.

**2.3 OWNER'S RIGHT TO STOP THE WORK**

If the Contractor fails to correct any portion of the Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or refuses or fails to carry out all or any part of the Work in accordance with the Contract Documents, the Owner, by written order, may order the Contractor to stop the Work, or any portion of the Work, until the cause for the order has been eliminated. The right of the Owner however, to stop the Work shall not create or imply a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. The rights of the Owner under this Paragraph 2.3 shall be in addition to, and not in restriction of, the Owner's rights under Paragraph 12.2.

**2.4 OWNER'S RIGHT TO CARRY OUT THE WORK**

If the Contractor fails or refuses to carry out the Work or perform any of the terms, covenants, or obligations of the Contract Documents, and fails or refuses to correct any failure or refusal with diligence and promptness within fourteen (14) days after receipt of notice from the Owner, the Owner may correct the Contractor's failure or refusal or cause such failure or refusal to be corrected, without affecting, superseding, or waiving any other contractual, legal, or equitable remedies the Owner has, including but not limited to the Owner's termination rights under Article 13. In that case, an appropriate Change Order will be issued deducting the Owner's cost of correction, including Engineer's compensation for additional services and expenses made necessary by the failure or refusal of the Contractor from payments then or thereafter due to the Contractor. The cost of correction is subject to verification (but not approval) by the Engineer. If payments then or thereafter

## EXHIBIT 1

due the Contractor are not sufficient to cover the cost of correction, the Contractor shall pay the difference to the Owner.

### 2.5 NOTICE TO PROCEED

After final execution of the Contract and receipt and approval of the required performance and payment bonds and evidence of required insurance, the Owner will issue a written notice to proceed with the Work, including the designated Contract Time within which Substantial Completion of the Work must be achieved. If the Owner unreasonably delays issuance of a written notice to proceed through no fault of the Contractor, the Contractor shall be entitled only to an equitable adjustment of the Contract Time, if properly claimed pursuant to the requirements of Paragraph 4.3; but the Contractor shall not be entitled to any increase to the Contract Sum whatsoever for this reason.

## ARTICLE 3 THE CONTRACTOR

### 3.1 DEFINITION OF CONTRACTOR

The Contractor is the person or business entity identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized employees or representatives.

### 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

(a) The Contractor shall carefully check, study, and compare the Contract Documents with each other and shall at once report to the Engineer in writing any inconsistency, ambiguity, error, omission, conflict, or discrepancy the Contractor may discover. The Contractor shall also verify all dimensions, field measurements, and field conditions before laying out the Work. The Contractor will be held responsible for any subsequent error, omission, conflict, or discrepancy which might have been avoided by the above-described check, study, comparison, and reporting. In the event the Contractor continues to work on an item where an inconsistency, ambiguity, error, omission, conflict, or discrepancy exists without obtaining such clarification or resolution or commences an item of the Work without giving written notice of an error, omission, conflict, or discrepancy that might have been avoided by the check, study, and comparison required above, it shall be deemed that the Contractor bid and intended to execute the more stringent, higher quality, or state of the art requirement, or accepted the condition as is in the Contract Documents, without any increase to the Contract Sum or Contract Time. The Contractor shall also be responsible to correct any failure of component parts to coordinate or fit properly into final position as a result of Contractor's failure to give notice of and obtain a clarification or resolution of any error, omission, conflict, or discrepancy, without any right to any increase to the Contract Sum or Contract Time.

(b) The Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

### 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

(a) The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents set forth specific instructions concerning these matters.

(b) The Contractor shall be responsible to the Owner for the acts and omissions of the Contractor's employees, Subcontractors, Sub-subcontractors, and their respective agents and employees, and

**EXHIBIT 1**

any other persons performing portions of the Work under a subcontract with the Contractor or with any Subcontractor, and all other persons or entities for which the Contractor is legally responsible. All labor shall be performed by mechanics that are trained and skilled in their respective trades. Standards of work required throughout shall be of a quality that will bring only first class results. Mechanics whose work is unsatisfactory, or who are considered careless, incompetent, unskilled, or otherwise objectionable shall be dismissed promptly from the Work and immediately replaced with competent, skilled personnel. Any part of the Work adversely affected by the acts or omissions of incompetent, unskilled, careless, or objectionable personnel shall be immediately corrected by the Contractor.

- (c) The Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Engineer in the Engineer's administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Contractor.
- (d) The Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work. The Contractor's responsibility under this paragraph will not in any way eliminate the Engineer's responsibility to the Owner under the Engineer/Owner Agreement.
- (e) Any Contractor, Subcontractor, Sub-subcontractor, or separate contractor who commences Work over, in, or under any surface prepared by the Owner or by any other contractor, subcontractor, sub-subcontractor or separate contractor without the Contractor having given written notice to the Engineer of the existence of any faulty surface or condition in the surface that prevents achieving the quality of workmanship specified by the Contract Documents and without having obtained the prior approval of the Engineer and the Owner to proceed is deemed to have accepted the surface or condition in the surface as satisfactory at the commencement of such Work. Any unsatisfactory Work subsequently resulting from such a faulty surface or condition in the surface that was not pre-approved by the Engineer or the Owner after notice as provided above may be rejected and replacement required, without any increase to the Contract Sum or Contract Time.
- (f) All grades, lines, levels, and benchmarks shall be established and maintained on an ongoing basis by the Contractor. The Contractor is solely responsible for any errors made in establishing or maintaining proper grades, lines, levels, or benchmarks. Each Contractor for his own Work shall verify all grades, lines, levels, and dimensions as indicated on Drawings. He shall report any errors, omissions, conflicts, or inconsistencies to Engineer before commencing any Work affected by these conditions. Contractor shall establish and safeguard benchmarks in at least two widely separated places and, as Work progresses, establish benchmarks at each level and lay out partitions on rough floor in exact locations as guides to all trades. The Contractor shall, from the permanent benchmark provided by the Owner, establish and maintain adequate horizontal and vertical control.

**3.4 LABOR AND MATERIALS**

- (a) Except as is otherwise specifically provided in the Contract Documents as being the responsibility of the Owner, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other

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facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

- (b) The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.
- (c) The Contractor shall give preference, when qualified labor is available to perform the Work to which the employment relates, to all labor hired for the Project in the following order:
  - (1) to bona fide residents of the City of Denton, Texas;
  - (2) to bona fide residents of the County of Denton, Texas;
  - (3) to bona fide residents of the State of Texas;
  - (4) to bona fide residents of the United States.

### 3.5 WARRANTY

- (a) **General Warranty.** The Contractor warrants to the Owner that all Work shall be accomplished in a good and workmanlike manner and that all materials and equipment furnished under the Contract will be of good quality, new (unless otherwise specified), and free from faults or defects, and that the Work will otherwise conform to the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, will be considered defective or nonconforming. The Contractor's warranty excludes any remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The commencement date, duration, and other conditions related to the scope of this general warranty are established in Subparagraphs 9.9 (a) and 12.2(b) of these General Conditions. **THE GENERAL WARRANTY PROVIDED IN THIS SUBPARAGRAPH IS IN ADDITION TO AND DOES NOT LIMIT OR DISCLAIM ANY OTHER WARRANTY OR REMEDY REQUIRED OR PROVIDED BY LAW OR THE CONTRACT DOCUMENTS AND SUCH WARRANTY SHALL REQUIRE THE CONTRACTOR TO REPLACE DEFECTIVE MATERIALS AND RE-EXECUTE DEFECTIVE WORK THAT IS DISCLOSED BY THE OWNER TO THE CONTRACTOR WITHIN A PERIOD OF ONE (1) YEAR AFTER SUBSTANTIAL COMPLETION OF THE ENTIRE WORK OR, IF A LATENT DEFECT, WITHIN ONE (1) YEAR AFTER DISCOVERY BY THE OWNER OF THE LATENT DEFECT.**
- (b) **Special Warranties.** The Contractor shall assign to the Owner in writing, as a condition precedent to final payment, the terms and conditions of all special warranties required under the Contract Documents.

### 3.6 TAXES

The Owner qualifies for exemption from state and local sales and use taxes, pursuant to the provisions of Section 151.309 of the Texas Tax Code, as amended. Therefore, the Owner shall not be liable for, or pay the Contractor's cost of, such sales and use taxes which would otherwise be payable in connection with the purchase of tangible personal property furnished and incorporated into the real property being improved under the Contract Documents or the purchase of materials, supplies and other tangible personal property, other than machinery or equipment and its accessories

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and repair and replacement parts, necessary and essential for performance of the Contract which is to be completely consumed at the job site. The Contractor shall issue an exemption certificate in lieu of the tax on such purchases.

### 3.7 PERMITS, FEES AND NOTICES

- (a) The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of governmental entities or agencies applying to performance of the Work.
- (b) Except as provided in Subparagraph (d) below, it is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, ordinances, construction codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance with applicable laws, ordinances, construction codes, rules or regulations, the Contractor shall promptly notify the Engineer and the Owner in writing, and necessary changes shall be accomplished by appropriate Amendment.
- (c) If the Contractor performs Work knowing it to be contrary to laws, ordinances, construction codes, or rules and regulations without notifying the Engineer and the Owner, the Contractor shall assume full responsibility for the Work and shall bear the attributable costs of the correction of the Work and any other Work in place that may be adversely affected by the corrective work.

### 3.8 ALLOWANCES

- (a) The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for the amounts identified in the Contract and by persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection.
- (b) Unless otherwise provided in the Contract Documents:
  - (1) materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;
  - (2) the amount of each allowance shall cover the cost to the Contractor of materials and equipment delivered at the site less all exempted taxes and applicable trade discounts;
  - (3) the amount of each allowance includes the Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance Work;
  - (4) whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect:
    - (i) the difference between actual costs and the allowances under Clause (b) (2); and
    - (ii) changes in Contractor's costs under Clause (b) (3);
  - (5) the Owner retains the right to review and approve Subcontractors selected by the Contractor to perform work activities covered by allowances.

### 3.9 SUPERINTENDENT (PROJECT MANAGER-ONSITE SUPERVISOR)

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The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Owner reserves the right to request that the Contractor replace its superintendent at any time and the Contractor will replace said superintendent at the Owner's direction.

**3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES**

- (a) The Contractor shall, immediately after award of the Contract and before submittal of the first Application for Payment, prepare and submit the construction schedule for the Engineer's and Owner's information, review, and approval in accordance with the following provisions:
- (1) Unless otherwise approved in writing by the Owner, the construction schedule shall not exceed the Contract Time limits currently in effect under the Contract Documents and shall provide for expeditious and practicable execution of the Work.
  - (2) The construction schedule shall include all shop drawing and submittal data requirements, indicating for each:
    - (i) the latest date to be submitted by the Contractor; and
    - (ii) the latest date for approval by the Engineer.
  - (3) The construction schedule shall be in the form of a critical path management schedule, and shall indicate each critical task (the "predecessor") of all the major construction activities of the Work in a logical and sequential order (the "project network") which requires completion prior to commencement of the task next following (the "successor"). Each task shall be identified with:
    - (i) actual work time, exclusive of slack time, for accomplishment;
    - (ii) the latest start date;
    - (iii) the latest finish date;
    - (iv) the amount of float associated with each task;
    - (v) the amount of labor, material, and equipment associated with each task; and
    - (vi) the percentage of completion as of the date of the current schedule.
  - (4) The construction schedule shall be revised and updated monthly to reflect the actual status of the Work and shall be submitted with each Application for Payment.
  - (5) On or before the first day of each month, following the date of commencement of the Work as stated in the notice to proceed, the Contractor shall prepare and submit to the Engineer and the Owner an up-to-date status report of the progress of the various construction phases of the Work in the form of an updated construction schedule. This status report shall consist of a time scale drawing indicating actual progress of the various phases of the Work and the percentage of completion of the entire Work. The original construction schedule shall be updated or changed to indicate any adjustments to the Contract Time granted by the Owner.

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The updated schedule must be submitted with the Contractor's Application for Payment. No application will be certified without a satisfactory update to the construction schedule.

- (6) The construction schedule will also be revised to show the effect of change orders and other events on Contract Time. No request for an increase in Contract Time will be considered unless it is accompanied by a schedule revision demonstrating the amount of time related to the cause of the request. If the Contractor's status schedules reflect that the Contractor has fallen behind the pace required to complete the Work within the Contract Time, through no fault of the Owner, the Contractor shall prepare a recovery schedule demonstrating how it intends to bring its progress back within the Contract Time. This recovery schedule shall be in a form acceptable to the Owner.
- (7) Costs incurred by the Contractor in preparing and maintaining the required construction schedule, any updated schedule, and any recovery schedule required by the Owner will not be paid as an additional or extra cost and shall be included in the Contract Sum.
- (8) The Contract Sum is deemed to be based upon a construction schedule requiring the full Contract Time. **NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE ALLOWED AS A RESULT OF THE CONTRACTOR BASING HIS BID ON AN EARLY COMPLETION SCHEDULE, OR AS A RESULT OF DELAYS AND COSTS ATTRIBUTABLE TO COMPLETION LATER THAN THE PLANNED EARLY COMPLETION DATE.**
  - (b) The Contractor shall also prepare and keep current, for the Engineer's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Engineer reasonable time to review submittals.
  - (c) The Contractor shall conform to the most recent schedules approved as to form by the Engineer and the Owner. Any subsequent revisions made by the Contractor to schedules in effect shall conform to the provisions of Subparagraph 3.10(a)
  - (d) If the Work falls behind the approved construction schedule, the Contractor shall take such steps as may be necessary to improve his progress, and the Engineer and the Owner may require him to increase the number of shifts, overtime operations, days of work, or the amount of construction plant, and to submit for approval revised schedules in the form required above in order to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Owner.

**3.11 DOCUMENTS AND SAMPLES AT THE PROJECT SITE**

The Contractor shall maintain at the Project site for the Owner one record copy of the Drawings, Specifications, addenda, and Amendments in good order and marked currently to record changes and selections made during construction, and in addition shall maintain at the Project site approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be available to the Engineer and shall be delivered to the Engineer for submittal to the Owner upon completion of the Work.

**3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

- (a) Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

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- (b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- (c) Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.
- (d) Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Engineer is subject to the limitations of Paragraph 4.2.
- (e) The Contractor shall review, approve and submit to the Engineer Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.
- (f) The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Engineer. Work requiring this submittal and review shall be in accordance with approved submittals and any identified exceptions noted by the Engineer.
- (g) By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and related field construction criteria, or will do so, and has checked and coordinated the information contained within submittals with the requirements of the Work and of the Contract Documents. The Contractor's attention is directed to Paragraph 3.2 of these General Conditions and the requirements stated in that Paragraph.
- (h) The Contractor shall not be relieved of responsibility for deviations, substitutions, changes, additions, deletions or omissions from requirements of the Contract Documents by the Engineer's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Contractor has specifically informed the Engineer in writing of such substitutions, changes, additions, deletions, omissions, or deviations involved in the submittal at the time of submittal and the Engineer, subject to a formal Change Order signed by the Owner, Engineer and Contractor, has given written approval to the specific substitutions, changes, additions, deletions, omissions, or deviations. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Engineer's approval thereof. Further, notwithstanding any approval of a submittal by the Engineer, the Contractor shall be responsible for all associated Project costs, including costs of coordination's, modifications, or impacts, direct or indirect, resulting from any and all substitutions, changes, additions, deletions, omissions, or deviations, whether or not specifically identified by the Contractor to the Engineer at the time of the above-mentioned submittals, including additional consulting fees, if any, in any and all accommodations associated with such substitutions, changes, additions, deletions, omissions, or deviations to the requirements of the Contract Documents.
- (i) The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to additional revisions other than those requested by the Engineer on previous submittals. In the absence of such written notice, the Engineer's approval of a resubmission shall not apply to the additional revisions not requested.
- (j) Informational submittals upon which the Engineer is not expected to take responsive action may be so identified in the Contract Documents.

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- (k) When professional certification of performance criteria of materials, systems, or equipment is required by the Contract Documents, the Engineer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

### 3.13 USE OF THE PROJECT SITE

The Contractor shall confine operations at the Project site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the Project site with materials or equipment.

### 3.14 CLEANING UP

- (a) The Contractor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Upon the completion of the Work the Contractor shall remove from and about the Project site all waste materials, and rubbish, and all of the Contractor's tools, construction equipment, machinery, and surplus materials.
- (b) If the Contractor fails to clean up as provided in the Contract Documents, the Owner may clean up and the Owner's cost of cleaning up shall be charged to the Contractor.

### 3.15 ACCESS TO WORK

The Contractor shall provide the Owner and the Engineer access to the Work in preparation and progress wherever located during the course of construction.

### 3.16 TESTS AND INSPECTIONS

- (a) Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of governmental entities or agencies having jurisdiction over the Work shall be made at appropriate times. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner or with the appropriate governmental entity or agency, and the Contractor shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Engineer timely notice of when and where tests and inspections are to be made so the Engineer may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals which become requirements after bids or proposals are received.
- (b) If the Engineer, the Owner or other public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 3.17(a), the Engineer will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Engineer of when and where tests and inspections are to be made so that the Engineer may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 3.17(c).
- (c) If procedures for testing, inspection, or approval under Subparagraphs 3.17(a) and 3.17(b) reveal deficiencies or nonconformities in the Work, the Contractor shall bear all costs made necessary to correct the deficiencies or nonconformities, including those of repeated procedures and compensation for the Engineer's services and expenses, if any. The Contractor shall bear the costs of any subsequent testing, inspection, or approval of the corrected Work.

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- (d) Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

**3.17 ROYALTIES AND PATENTS**

The Contractor shall pay all royalties and license fees. CONTRACTOR SHALL COMPLETELY DEFEND, INDEMNIFY AND HOLD OWNER AND ENGINEER HARMLESS FROM ANY AND ALL SUITS OR CLAIMS FOR INFRINGEMENT OF PATENT RIGHTS, REGARDLESS OF WHETHER OR NOT THE OWNER OR THE ENGINEER SPECIFIED A PARTICULAR DESIGN, PROCESS OR PRODUCT IN THE CONTRACT DOCUMENTS THAT MAY BE THE SUBJECT OF A PATENT INFRINGEMENT OR OTHERWISE ACTIVELY INDUCED OR CONTRIBUTED TO THE INFRINGEMENT. In the event the Contractor has reason to believe that a particular design, process or product specified infringes a patent, the Contractor shall immediately notify the Owner and the Engineer of same.

**3.18 INDEMNIFICATION**

- (a) THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE OWNER, ITS OFFICERS, AGENTS AND EMPLOYEES, AND THE ENGINEER, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, OR OF THE ENGINEER, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF THE CONTRACTOR, THE OWNER, AND THE ENGINEER, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.
- (b) In claims against any person or entity indemnified under this Paragraph 3.19 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.19 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers compensation acts, disability benefit acts or other employee benefit acts.

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- (c) Indemnification under this Paragraph 3.19 shall include, but is not limited to, liability which could result to or be created for the Owner, its officers, agents, or employees, or the Engineer pursuant to State or Federal laws or regulations relating to pollution of the environment and State or Federal laws or regulations relating to the occupational safety and health of workers. The Contractor specifically agrees to comply with the above-mentioned laws and regulations in the performance of the Work by the Contractor and that the obligations of the Owner, its officers, agents, and employees, and the Engineer under the above-mentioned laws and regulations are secondary to those of the Contractor.

**ARTICLE 4 CONTRACT ADMINISTRATION****4.1 THE DESIGN PROFESSIONAL (ENGINEER)**

- (a) The design professional is the person lawfully licensed to practice architecture or engineering or a firm or other business entity lawfully practicing architecture/engineering identified as such in the formal Building Construction Services Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Engineer" means the Engineer or the Engineer's authorized representative. The Owner may, at its option, designate a qualified Owner representative to serve as the Engineer on the Project instead of an outside firm or person. In such event, the references in these General Conditions that refer to the Engineer shall apply to the Owner-designated Engineer representative and the Owner-designated Engineer representative shall be accorded that same status by the Contractor.
- (b) In the event the Engineer is an outside person or firm and the Engineer's employment is terminated, the Owner may, at its option, contract with a new outside Engineer to replace the former, or may designate a qualified Owner representative to serve as the Engineer. The replacement Engineer, whether an Owner representative, an independent Engineer or any other qualified person or entity, shall be regarded as the Engineer for all purposes under the Contract Documents and shall be accorded that same status by the Contractor. Any dispute in connection with such appointment shall be reviewed and settled by the Owner, whose decision shall be final and binding.
- (c) Owner reserves the right to appoint a representative empowered to act for the Owner during the Construction Phase and to supersede the Engineer's Construction Phase responsibility. Similarly, from time to time the Owner may expand or reduce the Owner's delegation of powers to the Engineer, with the Owner notifying the Contractor of any such changes. The Engineer shall not be construed as a third party beneficiary to the Contract and can in no way object to any expansion or reduction of powers as set forth in this Subparagraph (c). In no event, however, shall the Owner have control over charge of, or be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs in connection with the Work since these are solely the Contractor's responsibility. The Owner will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for acts or omissions of Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

**4.2 CLAIMS AND DISPUTES**

- (a) Definition; General Notice of Claim Procedure. As used in these General Conditions, a "Claim" means a demand or assertion by one of the parties to the Contract seeking an adjustment of the terms of the Contract Documents, of the Contract Sum, of the Contract Time, or some other relief in respect to the terms of the Contract Documents. The term also includes all other disputes

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between the Owner and the Contractor arising out of or relating to the Project or the Contract Documents, including but not limited to claims that work was outside the scope of the Contract Documents. The responsibility to substantiate the Claim and the burden of demonstrating compliance with this provision shall rest with the party making the Claim. Except where otherwise provided in the Contract Documents, a Claim by the Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, **MUST BE MADE BY WRITTEN NOTICE TO THE ENGINEER AND THE OWNER WITHIN FOURTEEN (14) DAYS AFTER OCCURRENCE OF THE EVENT OR EVENTS GIVING RISE TO THE PARTICULAR CLAIM.** Every Claim of the Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind the Contractor by his signature) of the Contractor, verifying the truth and accuracy of the Claim. **THE CONTRACTOR SHALL BE DEEMED TO HAVE WAIVED ANY CLAIM NOT MADE STRICTLY IN ACCORDANCE WITH THE PROCEDURE AND TIME LIMITS SET OUT IN THIS PARAGRAPH.**

- (b) Referral to the Engineer. Claims, disputes, and other matters in question between the Contractor and the Owner relating to the progress or execution of the Work or the interpretation of the Contract Documents shall be referred to the Engineer for recommendation to the Owner, which recommendation the Engineer will furnish in writing within a reasonable time, provided proper and adequate substantiation has been received. Failure of the Contractor to submit the Claim to the Engineer for rendering of a recommendation to the Owner shall constitute a waiver of the Claim.
- (c) Continuing Contract Performance. Pending final resolution of a claim the Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make payments in accordance with the Contract Documents.
- (d) Claims for Concealed or Unknown Conditions. No adjustment in the Contract Sum or Time associated with concealed or unknown conditions will normally be considered or allowed; provided, however, that the Contract Sum or Time may be adjusted by the Owner in such circumstances only if:
  - (1) a concealed subsurface condition is encountered in the course of performance of the Work;
  - (2) a concealed or unknown condition in an existing structure is at variance with conditions indicated by the Contract Documents; or
  - (3) an unknown physical condition is encountered below the surface of the ground or in an existing structure which is of an unusual nature and materially different from those ordinarily encountered and generally recognized as inherent in the character of the Work; and
  - (4) a notice of claim with proper and adequate substantiation is presented pursuant to Subparagraph 4.3(a) of these General Conditions; and
  - (5) the Owner and the Engineer determine that:
    - (i) prior to submitting its bid for the Work, the Contractor used reasonable diligence to fully inspect the portion of the Project site where the condition was discovered; and
    - (ii) the work caused or required by the concealed or unknown condition at issue can be considered extra work to the extent that additional new Drawings must be prepared and issued and new construction beyond the scope of the Contract Documents is required.

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- (e) Disclaimer of Warranties as to Reports, Drawings, and Specifications. PROJECT SITE INFORMATION AND REPORTS (INCLUDING BUT NOT LIMITED TO SOILS TESTING REPORTS, GEOTECHNICAL REPORTS, OR ENVIRONMENTAL SITE ASSESSMENTS) PROVIDED BY THE OWNER AND THE ENGINEER IN THE PROJECT MANUAL OR BY OTHER MEANS SHALL BE UTILIZED BY THE CONTRACTOR AT THE CONTRACTOR'S OWN RISK. THE OWNER AND THE ENGINEER DO NOT GUARANTEE OR WARRANT ANY INFORMATION SHOWN IN THE PROJECT SITE INFORMATION AND REPORTS.
- (f) Claims for Additional Cost. If the Contractor wishes to make a claim for an increase in the Contract Sum, written notice as provided in this Paragraph 4.3 shall be given before proceeding to execute the Work. Prior notice is not required for claims relating to an emergency endangering life or property arising under Paragraph 10.3. In addition, the Contractor's request for an increase in the Contract Sum for any reason (other than work performed under emergency conditions) shall be made far enough in advance of required work to allow the Owner and the Engineer a sufficient amount of time, without adversely affecting the construction schedule, to review the request, prepare and distribute such additional documents as may be necessary to obtain suitable estimates or proposals and to negotiate, execute and distribute a Change Order for the required work if the Contractor believes that additional cost is involved for reasons including but not limited to:
- (1) a written interpretation from the Engineer;
  - (2) a written order for a minor change in the Work issued by the Engineer;
  - (3) failure of payment by the Owner;
  - (4) termination of the Contract by the Owner;
  - (5) the Owner's temporary suspension of all or any portion of the Work where the Contractor was not at fault; or
  - (6) other reasonable grounds.
- (g) Injury or Damage to Person or Property. If the Contractor suffers injury or damages to person or property because of an act or omission of the Owner, or of any of the Owner's officers, employees or agents, written, sworn-to notice of any claim for damages or injury shall be given as provided in Subparagraph 4.3(a). The notice shall provide sufficient detail to enable the Engineer and the Owner to investigate the matter.
- (h) Subcontractor Pass-Through Claims. In the event that any Subcontractor of the Contractor asserts a claim to the Contractor that the Contractor seeks to pass through to the Owner under the Contract Documents, any entitlement of the Contractor to submit and assert the claim against the Owner shall be subject to:
- (1) the requirements of Paragraph 4.3 of these General Conditions; and

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(2) the following additional three requirements listed below, all three of which additional requirements shall be conditions precedent to the entitlement of the Contractor to seek and assert such claim against the Owner:

(ii) The Contractor shall either (A) have direct legal liability as a matter of contract, common law, or statutory law to the Subcontractor for the claim that the Subcontractor is asserting or (B) the Contractor shall have entered into a written liquidating agreement with the Subcontractor, under which agreement the Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such claim against the Owner under the Contract and for paying to the Subcontractor any amount that may be recovered, less Contractor's included markup (subject to the limits in the Contract Documents for any markup). The liability or responsibilities shall be identified in writing by the Contractor to the Owner at the time such claim is submitted to Owner, and a copy of any liquidating agreement shall be included by the Contractor in the claim submittal materials.

(ii) The Contractor shall have reviewed the claim of the Subcontractor prior to its submittal to Owner and shall have independently evaluated such claim in good faith to determine the extent to which the claim is believed in good faith to be valid. The Contractor shall also certify, in writing and under oath to the Owner, at the time of the submittal of such claim, that the Contractor has made a review, evaluation, and determination that the claim is made in good faith and is believed to be valid.

(iii) The Subcontractor making the claim to the Contractor shall certify in writing and under oath that it has compiled, reviewed and evaluated the merits of such claim and that the claim is believed in good faith by the Subcontractor to be valid. A copy of the certification by the Subcontractor shall be included by Contractor in the claim submittal materials.

(3) Any failure of the Contractor to comply with any of the foregoing requirements and conditions precedent with regard to any such claim shall constitute a waiver of any entitlement to submit or pursue such claim.

(4) Receipt and review of a claim by the Owner under this Subparagraph shall not be construed as a waiver of any defenses to the claim available to the Owner under the Contract Documents or law.

(i) Owner's Right to Order Acceleration and to Deny Claimed and Appropriate Time Extensions, in Whole or in Part. The Contractor acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner. The following provisions, therefore, will apply:

(1) If the Contractor falls behind the approved construction schedule for whatever reason, the Owner shall have the right, in the Owner's sole discretion, to order the Contractor to develop a recovery schedule as described in Paragraph 3.10 or to accelerate its progress in such a manner as to achieve Substantial Completion on or before the Contract Time completion date or such other date as the Owner may reasonably direct and, upon receipt, the Contractor shall take all action necessary to comply with the order. In such event, any possible right, if any, of the Contractor to additional compensation for any acceleration shall be subject to the terms of this Subparagraph (i).

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- (2) In the event that the Contractor is otherwise entitled to an extension of Contract Time and has properly initiated a Claim for a time extension in accordance with Subparagraph 4.3(a) above, the Owner shall have the right, in the Owner's sole discretion, to deny all, or any part, of the Claim for extension of Contract Time by giving written notice to the Contractor provided within fourteen (14) days after receipt of the Contractor's Claim. If the Owner denies the Contractor's claim for an extension of Contract Time under this Clause (i)(2), either in whole or in part, the Contractor shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Completion Date.
- (3) If the Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents, for an amount of time that would have justified approval by the Owner if not for the need and right to accelerate, the Contractor may initiate a Claim for acceleration costs pursuant to Subparagraph 4.3(a). Any resulting Claim for acceleration costs properly initiated by the Contractor under Subparagraph 4.3(a) above shall be limited to those reasonable and documented direct costs of labor, materials, equipment, and supervision solely and directly attributable to the actual acceleration activity necessary to bring the Work back within the then existing approved construction schedule. These direct costs include the premium portion of overtime pay, additional crew, shift, or equipment costs if requested in advance by the Contractor and approved in writing by the Owner. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance, not to exceed 5%, will be allowed on the claimed acceleration costs. **NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING BUT NOT LIMITED TO HOME OFFICE OVERHEAD) OR ANY OTHER COSTS WILL BE ALLOWED ON ANY ACCELERATION CLAIM.** The Owner shall not be liable for any costs related to an acceleration claim other than those described in this Clause (i) (3).
- (i) **Waiver of Claims; Final Payment.** The making of final payment shall constitute a waiver of claims by the Owner except those arising from:
- (1) claims, security interests, purported liens, or other attempted encumbrances arising out of the Contract and remaining unsettled;
  - (2) defective or nonconforming Work appearing after Substantial Completion;
  - (3) latent defects, as defined in Subparagraph 12.2(d), appearing after Final Completion; or
  - (4) the terms of general and special warranties required by the Contract Documents or allowed or implied by law.
- (k) **THE CONTRACTOR SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES AS A PART OF ANY CLAIM MADE UNDER THE CONTRACT DOCUMENTS OR IN ANY SUBSEQUENT LAWSUIT OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING.**
- (l) **No Waiver of Governmental Immunity. NOTHING IN THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO WAIVE THE OWNER'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY STATE LAW.**

**EXHIBIT 1****ARTICLE 5 SUBCONTRACTORS****5.1 DEFINITIONS OF SUBCONTRACTOR**

- (a) A Subcontractor is person or entity who has a direct contract with the Contractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Contractor by purchase or lease for use in performance of or incorporation into the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.
- (b) A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Subcontractor or another Sub-subcontractor by purchase or lease for use in performance of or incorporation into the Work. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

**5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

- (a) Immediately after the award of the Contract by the Owner, and before the Building Construction Services Agreement is signed by the Contractor and the Owner, the Contractor shall furnish to the Engineer in writing, for acceptance by the Owner and the Engineer, a list of the names, addresses, telephone numbers, M/WBE certification numbers (where applicable), and type of work of the Subcontractors (including those who are to furnish materials or equipment fabricated to a special design), proposed for the principal portions of the Work, including furnishings when made a part of the Contract. The Contractor shall immediately notify the Owner in writing of any changes in the list as they occur. The Engineer will promptly reply to the Contractor in writing stating whether or not the Owner or the Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Engineer to reply promptly shall constitute notice of no reasonable objection.
- (b) The Contractor shall not contract with a proposed person or entity to whom the Owner or Engineer has made reasonable and timely objection.
- (c) Engineer's and Owner's approval of or objection to any Subcontractor or of a particular process or material will not relieve the Contractor of his responsibility for performance of Work as called for under the Contract Documents, and shall not provide a basis for any claim for additional time or money on the part of the Contractor. Approval shall not be construed to create any contractual relationship between the Subcontractor and either the Owner or Engineer. In no event shall the Contract Sum be increased as a result of the rejection of any Subcontractor.
- (d) The Contractor shall not change a Subcontractor previously selected if the Owner or Engineer makes reasonable objection to such change.

**5.3 SUBCONTRACTUAL RELATIONS**

- (a) By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents (including but not limited to

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these General Conditions), and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by the Contract Documents, assumes toward the Owner and the Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and the Engineer under the Contract Documents (including but not limited to these General Conditions) with respect to the Work to be performed by the Subcontractor so that subcontracting will not prejudice the rights of the Owner and the Engineer. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor is to be bound. Subcontractors shall similarly make copies of applicable portions of such Documents available to their respective proposed Sub-subcontractors.

- (b) The Contractor is solely responsible for making payments properly to the Contractor's Subcontractors on the Project. During performance of the Work, the Contractor shall comply with the following additional rules regarding Subcontractor payments:
- (1) The Contractor shall submit, beginning with the Second Application and Certificate for Payment, a Subcontractor Payment Report (the "Report") with each Application and Certificate for Payment. The Report shall show all payments made to date by the Contractor (plus existing retainage) to each Subcontractor involved in the Project. The Report shall be made on a form approved and supplied by the Owner. As an alternative to the Report, the Contractor may furnish Affidavits of Payment Received with the Application and Certificate for Payment, which affidavits shall be executed by each Subcontractor owed money and paid during the previous progress payment period for work or materials furnished on the Project. RECEIPT BY THE OWNER OF THE REPORT OR AFFIDAVITS OF PAYMENT RECEIVED SHALL BE A CONDITION PRECEDENT TO PAYMENT ON ANY APPLICATION.
  - (2) If, for any reason, the Contractor is withholding payment to a Subcontractor due to a dispute or other problem with performance, the Contractor shall note the amount withheld and that payment is in dispute. The Owner may require the Contractor to document and verify the dispute or other problem in question.
  - (3) The Owner reserves the right in its sole discretion, to withhold payment to the Contractor pursuant to Paragraph 9.5(a) of the General Conditions, should it appear from the Report, statements of payment received or other information furnished to the Owner that:
    - (i) the Report has not been properly completed;
    - (ii) the Contractor has knowingly provided false information regarding payment of any Subcontractor; or
    - (iii) the Contractor has otherwise failed to make payments properly to any Subcontractor.
  - (4) THE CONTRACTOR SHALL NOT HAVE ANY RIGHT TO MAKE A CLAIM FOR ADDITIONAL TIME OR ADDITIONAL COMPENSATION AS A RESULT OF THE OWNER'S OR ENGINEER'S ENFORCEMENT OF THIS SUBPARAGRAPH 5.3(b). NO PROVISION OF THIS SUBPARAGRAPH OR ANY OF THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO CREATE A CONTRACTUAL RELATIONSHIP, EXPRESS OR IMPLIED, BETWEEN ANY SUBCONTRACTOR AND EITHER THE

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OWNER OR THE ENGINEER AND SHALL NOT BE CONSTRUED TO MAKE ANY SUBCONTRACTOR OR ANY OTHER PERSON OR ENTITY A THIRD PARTY BENEFICIARY OF THE CONTRACT BETWEEN THE OWNER AND THE CONTRACTOR.

**5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS**

In the event of a termination of this Contract by the Owner under Article 14, the Contractor shall, if requested in writing by the Owner, within fifteen (15) days after the date notice of termination is sent, deliver and assign to Owner, or any person or entity acting on the Owner's behalf, any or all subcontracts made by Contractor in the performance of the Work, and deliver to the Owner true and correct originals and copies of the subcontract documents. In the event assignment is not requested by the Owner, Contractor shall terminate all subcontracts to the extent that Owner has not directed assignment of same and to the extent that they relate to the performance of Work terminated by the notice of termination.

**ARTICLE 6 CONSTRUCTION BY THE OWNER/ SEPARATE CONTRACTORS****6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS**

- (a) The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project site under Conditions of the Contract identical or substantially similar to these General Conditions, including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make a claim as provided elsewhere in and in accordance with the Contract Documents.
- (b) When separate contracts are awarded for different portions of the Project or other construction or operations on the Project site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Building Construction Services Agreement with the Owner.
- (c) The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall, with the approval of the Owner, make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors, and the Owner until subsequently revised by mutual agreement or by written Change Order. If the Contractor believes it is entitled to an adjustment of the Contract Sum under the circumstances, the Contractor shall submit a written proposal for a Change Order pursuant to Article 7 of the General Conditions. In the event the Contractor's Change Order proposal is denied by the Owner, the Contractor must submit any Claim pursuant to Paragraph 4.3 of the General Conditions.
- (d) Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under these General Conditions, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11 and 12.

**EXHIBIT 1****6.2 MUTUAL RESPONSIBILITY**

- (a) The Contractor shall afford the Owner and separate contractors' reasonable opportunity for access to and storage of their materials and equipment and the performance of their activities and shall coordinate the Contractor's construction and operations with the separate contractors as required by the Contract Documents.
- (b) If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Engineer apparent discrepancies or defects in the other construction that would render it unsuitable for proper execution and results. Failure of the Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.
- (c) The Owner shall not be liable to the Contractor for damages suffered by the Contractor due to the fault or negligence of a separate contractor or through failure of a separate contractor to carry out the directions of the Owner or the Engineer. Should any interference occur between the Contractor and a separate contractor, the Engineer or the Owner may furnish the Contractor with written instructions designating priority of effort or change in methods, whereupon the Contractor shall immediately comply with such direction. In such event, the Contractor shall be entitled to an extension of the Contract Time only for unavoidable delays verified by the Engineer; no increase in the Contract Sum, however, shall be due to the Contractor.
- (d) The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2(e).
- (e) Should the Contractor cause damage to the work or property of any separate contractor on the Project, the Contractor shall, upon due notice, settle with the separate contractor by agreement, if the separate contractor will so settle. If the separate contractor sues the Owner or submits a claim on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor who shall defend such proceedings, at the Contractor's expense, and if any judgment or award against the Owner arises from the separate contractor's claim, the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorney's fees and costs which the Owner has incurred.
- (f) The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Paragraph 3.14.

**6.3 OWNER'S RIGHT TO CLEAN UP**

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the Project site and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Engineer recommends to be just.

**EXHIBIT 1****ARTICLE 7 AMENDMENTS****7.1 CHANGE ORDERS**

- (a) A Change Order is a written order to the Contractor, signed by the Owner and the Engineer, issued after execution of the Contract, authorizing a change in the Work, an adjustment in the Contract Sum, or an adjustment to the Contract Time, consistent with other applicable provisions of this Contract. The Owner, without invalidating the Contract and without requiring notice of any kind to the sureties, may order changes to the scope of Work under the Contract by additions, deletions, or other revisions, the Contract Sum and Contract Time to be adjusted consistent with other applicable provisions of this Contract. All Change Orders shall be executed on a Change Order form approved by the Owner and the Owner's City Attorney.
- (b) In addition to the Owner and the Engineer, the Contractor shall sign all Change Orders to verify and confirm the terms and conditions established by Change Order; however, should the Contractor refuse to sign a Change Order, this shall not relieve him of his obligation to perform the change directed by the Owner and the Engineer to the best of his ability in accordance with the provisions of this Article 7. A Change Order signed by the Contractor indicates his agreement with all of the changes approved, including the adjustment in the Contract Sum or the Contract Time. EACH CHANGE ORDER SHALL BE SPECIFIC AND FINAL AS TO PRICES AND EXTENSIONS OF TIME, WITH NO RESERVATIONS OR OTHER PROVISIONS ALLOWING FOR FUTURE ADDITIONAL MONEY OR TIME AS A RESULT OF THE PARTICULAR CHANGES IDENTIFIED AND FULLY COMPENSATED IN THE CHANGE ORDER. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work. The Contractor forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release applies to claims related to the cumulative impact of all Change Orders and to any claim related to the effect of a change on other Work.
- (c) No extra work (except under emergency conditions) or changes shall be made nor shall any substitutions, changes or additions to or omissions or deviations from the requirements of the Drawings and Specifications be made unless pursuant to a written Change Order signed by the Owner and the Engineer, it being expressly understood that the Owner shall not be liable for the cost of extra work or any substitution, change, addition, omission or deviation from the requirements of the Drawings or Specifications unless the same shall have been authorized in writing by the Owner and the Engineer in a written change order or other Amendment. The provisions of this Paragraph 7.1 shall control in the event of any inconsistency between such provisions and the other provisions of this Article 7. See Subparagraph 10.3(a) of the General Conditions for Change Orders under emergency conditions.
- (d) The method of determining the cost or credit to the Owner for any change in the Work shall be one of the following:
- (1) mutual acceptance of a not-to-exceed lump sum amount properly itemized and supported by sufficient substantiating data to permit evaluation;
  - (2) unit prices stated in the Contract Documents or subsequently agreed upon;

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- (3) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
  - (4) the force account method provided in Subparagraph 7.1(e)
- (e) If the parties cannot agree to one of the methods of calculating cost provided in Clauses (d) (1), (d) (2), or (d) (3), or if the parties agree to a method but cannot agree to a final dollar figure, or if the Contractor for whatever reason refuses to sign the Change Order in question, the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of the Work involved shall then be calculated on the basis of the reasonable jobsite expenditures and savings of those performing the Work attributable to the changes, including a reasonable allowance for overhead and profit, such allowance in any case never to exceed 15%. In such case, the Contractor shall keep an itemized accounting of the Work involved, on a daily basis, in such form and with the appropriate supporting data as the Engineer and Owner may prescribe. Sworn copies of the itemized accounting shall be delivered to the Engineer each day during the performance of force account work, with copies to the Owner.

**FAILURE OF THE CONTRACTOR TO SUBMIT THE SWORN-TO ITEMIZED ACCOUNTING DAILY AS REQUIRED HEREIN SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY RIGHT TO DISPUTE THE OWNER'S DETERMINATION OF THE AMOUNT DUE THE CONTRACTOR FOR FORCE ACCOUNT WORK. Costs to be charged under this Subparagraph for force account work are limited to the following:**

- (1) costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers compensation insurance;
  - (2) costs of materials, supplies and equipment (but not to include off-site storage unless approved in writing by the Owner), whether incorporated or consumed;
  - (3) rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
  - (4) costs of premiums for all bonds and insurance related to the Work; and
  - (5) additional costs of supervision and field office personnel directly attributable to the changed Work. Pending final determination of cost to the Owner, payment of undisputed amounts on force account shall be included on the Engineer's Certificate of Payment as work is completed.
- (f) The amount of credit to be allowed to the Owner for any deletion of Work or any other change which results in a net decrease of the Contract Sum shall be the amount of actual net cost confirmed by the Engineer plus the stated percentage for overhead and profit. When both additions and deletions or credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease with respect to that change.

**7.2 SUPPLEMENTAL AGREEMENTS**

A written Supplemental Agreement can also be used to implement changes in the Work instead of a Change Order form, including but not limited to situations involving partial occupancy of the Work under Paragraph 9.8, a change made to the Drawings or the Specifications without an increase in the

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Contract Sum, or special circumstances where it is necessary or more appropriate for the Owner to use a Supplemental Agreement. Written Supplemental Agreements shall have a status equal to that of Change Orders for purposes of priority of Contract Documents interpretation, except that to the extent of a conflict, later Supplemental Agreements in time control over earlier Supplemental Agreements, and the latest Change Order or Supplemental Agreement in time controls over earlier dated Change Orders and Supplemental Agreements. The rules of Subparagraphs 7.1(b) through (f) shall also apply to the negotiation and execution of Supplemental Agreements.

**7.3 MINOR CHANGES IN THE WORK**

The Engineer, after notifying the Owner, shall be authorized to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Minor changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly. These written orders shall not be deemed to change or impact the Contract Sum or the Contract Time. Contractor shall have no Claim for any minor change ordered to the Work under this Paragraph 7.3 unless the Contractor submits its change proposal, prior to complying with the minor change ordered and in no event later than ten (10) working days from the date the minor change was ordered, to the Owner for approval.

**7.4 TIME REQUIRED TO PROCESS AMENDMENTS**

- (a) All of the Contractor's responses to proposal requests shall be accompanied by a complete, itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow the Owner and the Engineer a minimum of thirty (30) calendar days after receipt by the Engineer to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. All of the Contractor's responses to proposal requests shall include a statement that the cost described in the response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution, or other grounds for seeking extra compensation under the Contract Documents, without reservation or further recourse.
- (b) All Amendments require approval by either the City Council or, where authorized by the state law and City ordinance, by the City Manager pursuant to Administrative Action. The approval process requires a minimum of forty-five (45) calendar days after submission to the Owner in final form with all supporting data. Receipt of a submission by Owner does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal will be authorized by City Council Resolution or Administrative Action. **THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR INCREASE IN THE CONTRACT SUM WILL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS.** Pending the approval described above, the Contractor will proceed with the work under a pending Amendment only if directed in writing by the Owner.

**ARTICLE 8 CONTRACT TIME****8.1 DEFINITIONS**

- (a) Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.
- (b) The date of commencement of the Work is the date established in the notice to proceed from the Owner. The date of commencement shall not be postponed by the failure of the Contractor, or of

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persons or entities for whom the Contractor is responsible to act promptly to commence the Work. If the Owner unreasonably delays the issuance of the notice to proceed through no fault of the Contractor, the Contractor shall be entitled only to an equitable extension of the Contract Time; the Contract Sum shall remain unchanged.

- (c) The date of Substantial Completion is the date certified by the Engineer in accordance with Paragraph 9.7.
- (d) The term "day" as used in the Contract Documents shall mean a calendar day, beginning and ending at 12:00 midnight, unless otherwise specifically defined by special provision.

**8.2 PROGRESS AND COMPLETION**

- (a) Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Building Construction Services Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.
- (b) The Contractor shall not knowingly, except by agreement with or instruction of the Owner in writing, prematurely commence operations on the Project site or elsewhere prior to the effective date of insurance to be furnished by the Contractor as required by Article 11. The date of commencement of the Work shall not be changed by the effective date of insurance required by Article 11.
- (c) **Liquidated Damages.** The Contractor shall proceed expeditiously with adequate forces, materials, and equipment, and shall achieve Substantial Completion within the Contract Time. If the Contractor fails or refuses to complete the Work within the Contract Time as specified in the Bid Proposal form, the Building Construction Services Agreement, or in any proper extension of the Contract Time granted by the Owner, then the Contractor agrees, as a part of the consideration for the awarding of the Contract, to pay to the Owner the amount of liquidated damages (hereinafter called the "Stipulated Amount") as stipulated in the Bid Proposal form and the Building Construction Services Agreement for each calendar day that the Contractor has not Substantially Completed the Work after the expiration of the Contract Time provided. The Stipulated Amount is not to be considered as a penalty, but shall be deemed, taken, or treated as reasonable liquidated damages, fixed and agreed upon by and between the Contractor and the Owner because of the impracticality and extreme difficulty of fixing and ascertaining the actual damages the Owner would sustain in the event of the Contractor's late completion of the Project, and the stipulated amount is agreed to be the daily amount of damages that the Owner would sustain. The Stipulated Amount, as it accrues, will be retained from any portion of the Contract Sum due or that may become due to the Contractor. In the event the portion of the Contract Sum retained by the Owner is insufficient to recover the Stipulated Amount, then the Contractor or the Contractor's Surety shall pay to the Owner any additional liquidated damages due that are in excess of the funds remaining unpaid in the Contract Sum. The Owner shall be the sole judge as to whether or not the Work has been Substantially Completed within the calendar days allotted, which shall include the original Contract Time and any proper extension of the Contract Time granted in writing by the Owner. Should the Contractor dispute the Owner's determination of liquidated damages due, however, or should the Contractor, or the Contractor's agents or assigns, institute any legal action against the Owner to enforce rights under the Contract Documents, then this Subparagraph 8.2(c) shall not be construed to prevent the Owner from seeking full recovery for any and all actual damages suffered by the Owner and attributable to the Contractor, as an alternative to all liquidated damages due.

**EXHIBIT 1****8.3 DELAYS AND EXTENSIONS OF TIME**

- (a) If the Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Engineer, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending a claim, or by other causes which the Engineer determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Engineer and Owner may determine.
- (b) Claims relating to Contract Time and time extensions shall be made in accordance with the applicable provisions of Paragraph 4.3.
- (c) No Damages for Delay. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE CONTRACT DOCUMENTS, INCLUDING THE GENERAL CONDITIONS, NO ADJUSTMENT SHALL BE MADE TO THE CONTRACT SUM AND THE CONTRACTOR SHALL NOT BE ENTITLED TO CLAIM OR RECEIVE ANY ADDITIONAL COMPENSATION AS A RESULT OF OR ARISING OUT OF ANY DELAY, HINDRANCE, DISRUPTION, FORCE MAJEURE, IMPACT, OR INTERFERENCE, INTENTIONAL OR UNINTENTIONAL, FORESEEN OR UNFORESEEN, WHICH INCREASES THE TIME TO COMPLETE THE WORK, INCLUDING BUT NOT LIMITED TO ANY DELAYS CAUSED IN WHOLE OR IN PART BY THE ACTS, OMISSIONS, FAILURES, NEGLIGENCE, OR FAULT OF THE OWNER, THE ENGINEER, OR THE OWNER'S REPRESENTATIVE, AN EXTENSION OF THE CONTRACT TIME UNDER SUBPARAGRAPH 8.3(a) BEING THE CONTRACTOR'S SOLE REMEDY.
- (d) The Owner shall have the right to occupy, without prejudice to the right of either party, any completed or largely completed portions of the structure or Work, notwithstanding the fact that the Contract Time for completing all or a portion of the Work may not have expired. Partial occupancy and use shall not be deemed as an acceptance of the Work taken or used.
- (e) The Contractor shall promptly suspend the Work when either the Contractor or the Owner is ordered to do so by a court order from a court having lawful jurisdiction, and the Contractor will not be entitled to additional compensation by virtue of any delays resulting from the court order. The Contractor will also not be liable to the Owner for a delay caused in fact by the Work being suspended by a court order.
- (f) The Engineer, with the consent of the Owner, shall have the authority to suspend the Work, in whole or in part, for such period or periods as the Engineer deems necessary due to unusual or severe weather conditions as are considered unfavorable for the suitable prosecution of the Work, or due to failure on the part of the Contractor to correct conditions considered unsafe for workmen or the general public. If it should become necessary to stop 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 or become damaged in any way, and shall take every precaution to prevent damage or deterioration of the Work performed. In cases of suspension of the Work under this Subparagraph, the Contractor shall also provide suitable drainage about the Work and erect temporary structures where necessary. The Contractor shall not suspend the Work in whole or in part without written authority from the Engineer or the Owner, and shall resume the Work promptly when notified by the Engineer or the Owner to resume operations.

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- (g) In the event of a delay that is the responsibility of the Contractor or any of the Subcontractors, for which the Contractor is not entitled to a time extension under the provisions of this Contract, the Owner may direct that the Work be accelerated by means of overtime, additional crews or additional shifts, or resequencing. This acceleration shall be at no cost to the Owner and will continue until the Contract Time is restored. In the event of a delay for which the Contractor is entitled to a time extension, as determined by the Engineer, Owner may similarly direct acceleration and the Contractor agrees to perform same on the basis that the Contractor will be reimbursed only to the extent described in Subparagraph 4.3(i). **THE CONTRACTOR EXPRESSLY WAIVES ANY OTHER COMPENSATION RESULTING FROM ACCELERATION, SUCH AS LOSS OF LABOR PRODUCTIVITY OR EFFICIENCY.**

**ARTICLE 9 PAYMENTS AND COMPLETION****9.1 CONTRACT SUM**

The Contract Sum is stated in the Building Construction Services Agreement and, including authorized adjustments, is the total amount of compensation payable by the Owner to the Contractor for the performance of the Work under the Contract Documents.

**9.2 SCHEDULE OF VALUES**

Before the first Application for Payment, the Contractor shall submit to the Engineer a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Engineer may require. This schedule, when approved by the Engineer and the Owner, shall be used as a basis for the Contractor's Application for Payment. The schedule of values shall follow the trade division of the Specifications. Contractor's Application for Payment shall be filed on the current version of AIA Form G702 (Application and Certificate for Payment), as approved by the Owner.

**9.3 APPLICATIONS FOR PAYMENT**

- (a) At least ten (10) days before the date established for each progress payment, the Contractor shall submit to the Engineer an itemized Application for Payment for Work completed in accordance with the schedule of values. The Application shall be notarized, if required, and supported by data substantiating the Contractor's right to payment as the Owner or Engineer may require, including but not limited to copies of requisitions from Subcontractors and material suppliers, and reflecting the applicable retainage as required in the Contract Documents. Contractor's Application for Payment shall also provide other supporting documentation as the Owner or the other applicable provisions of the Contract Documents may require.
- (b) Applications for Payment may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor because of a good faith dispute, unless the Contractor complies with Clause 5.3(b) (2) of these General Conditions and the Contractor's Payment Bond Surety consents in writing to payment to the Contractor of the funds deemed to be in dispute.
- (c) Unless otherwise provided in the Contract Documents, progress payments shall include payment for materials and equipment delivered and suitably stored at the Project site for subsequent incorporation into the Work within thirty (30) days after delivery to the Project site. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored away from the Project site at a location agreed upon in writing. Payment for costs incurred

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in storage of materials or equipment away from the Project site will NOT be made by Owner unless:

- (1) the Owner has given prior approval of such off-site storage in writing;
  - (2) the materials or equipment are stored in a bonded warehouse located in Denton County and identified with the Project for which they are stored, as evidenced by warehouse receipts and appropriate documents of title; and
  - (3) the materials or equipment stored off-site will be incorporated into the Work within thirty (30) days after delivery. STORAGE IN FACILITIES OF THE MANUFACTURER OR THE CONTRACTOR WILL NOT BE PERMITTED OR PAID FOR, UNLESS THE OWNER HAS EXPRESSLY GIVEN PRIOR APPROVAL OF SUCH STORAGE IN WRITING.
- (d) The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.
- (e) All materials or equipment delivered to the Project site earlier than thirty (30) days prior to an approved schedule for delivery to the Project site shall be classified as an "early delivery." All early delivery materials or equipment must have the express written permission of the Owner to be stored on the Project site. If any unauthorized early delivery occurs, Contractor shall, at Contractor's expense or at the expense of the responsible Subcontractor or Supplier, cause such early delivery to be removed from the Project site and stored off-site until required at the Project site. All costs of labor, transportation and storage will be included as part of the expense. If the Contractor fails or refuses to remove unauthorized early delivery materials, the Owner may cause such materials to be removed at the Contractor's sole expense, and amounts may be withheld from the Contractor's Application for Payment to reimburse the Owner for any costs incurred in removing unauthorized early delivery materials. OWNER WILL NOT BE RESPONSIBLE FOR THE PROTECTION OF OR RISK OF LOSS ON ANY EARLY DELIVERY MATERIALS OR EQUIPMENT, NOR WILL OWNER BE LIABLE FOR ANY PAYMENT FOR THE EARLY DELIVERY MATERIALS OR EQUIPMENT. Any materials or equipment classified as early delivery will not be approved for payment as stored materials prior to thirty (30) days before the incorporation of the materials or equipment into the Work, unless storage and payment at an earlier date is expressly approved in writing by the Owner.
- (f) If the Contract Sum is equal to or less than \$25,000.00 and performance and payment bonds are not furnished by the Contractor, no payment applied for will be payable under the Contract until the Work has been Finally Completed and accepted.

**9.4 CERTIFICATES FOR PAYMENT**

- (a) The Engineer will, within ten (10) days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Engineer determines is properly due, or notify the Contractor and Owner in writing of the Engineer's reasons for withholding certification in whole or in part as provided in
- (a) Subparagraph 9.5(a). The Certificate for Payment shall be issued on the current version of AIA Form G702 (Application and Certificate for Payment) as approved by the Owner.

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- (b) The issuance of a Certificate for Payment will constitute a representation by the Engineer to the Owner, based on the Engineer's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Engineer's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial and Final Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Final Completion and to specific qualifications expressed by the Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified, subject to the Owner's approval. The issuance of a Certificate for Payment is not a representation that the Engineer has:
- (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;
  - (2) reviewed construction means, methods, techniques, sequences or procedures;
  - (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or
  - (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.
- (c) Whenever the Application for Payment for Work done since the last previous Application for Payment exceeds one hundred dollars (\$100.00) in amount, Owner will pay a percentage of the Application, less applicable retainage, to the Contractor within thirty (30) days following Owner's receipt and approval of the Certificate for Payment certified by the Engineer. The Application may include acceptable nonperishable materials delivered to the Work or stored as provided for in Paragraph 9.3(c) and the payment will be allowed on the net invoice value, less taxes and applicable retainage.
- (d) The City is required to withhold retainage for public works contracts in which the total contract price estimate at the time of execution is more than \$400,000; however, this requirement is typically applied by the City for all public works contracts in excess of \$50,000. The City may require varying percentage withholding amounts; however, the City typically requires five percent. For retainage percentages in excess of five percent, the City must deposit the retainage into an interest-bearing account and pay the interest earned to the contractor on completion of the contract. The retainage will be withheld by the Owner from each progress payment until final completion of the Work by the Contractor, approval of final completion by the Engineer, and final acceptance of the Work by the Owner. Unless otherwise required by state law, the retainage percentage as specified above is based upon the original Contract Sum, and will not be affected in the event the original Contract Sum is subsequently increased or decreased by Change Order.
- (e) No progress payments shall be made on contracts where performance and payment bonds are not required or furnished. In such instances, payment for the Work performed will be made upon final completion and acceptance by the Owner of all Work.

**9.5 DECISIONS TO WITHHOLD CERTIFICATION**

- (a) The Engineer or the Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner's interest, if

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in the Engineer's or Owner's opinion the representations to the Owner required by Subparagraph 9.4(b) cannot be made. If the Engineer or the Owner is unable to certify payment in the amount of the Application, the Engineer or the Owner will notify the Contractor as provided in Subparagraph 9.4(a). If the Contractor and Engineer or the Owner cannot agree on a revised amount, the Engineer will promptly issue a Certificate for Payment for the amount for which the Engineer is able to make the required representations to the Owner. The Engineer or the Owner may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary, in the Engineer's or Owner's opinion, to protect the Owner from loss because of:

- (1) defective or nonconforming Work not remedied;
  - (2) third party claims filed or reasonable evidence indicating probable filing of such claims;
  - (3) failure of the Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;
  - (4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
  - (5) damage to the Owner or another contractor;
  - (6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - (7) persistent failure to carry out the Work in accordance with the Contract Documents; or
  - (8) mathematical or other errors that are discovered in the Application for Payment.
- (b) When each of the above reasons that existed for withholding certification are removed or remedied, certification will be made for amounts previously withheld.
- (c) The Owner may, at its option, offset any progress payment or final payment under the Contract Documents against any debt (including taxes) lawfully due to the Owner from the Contractor, regardless of whether the amount due arises pursuant to the terms of the Contract Documents or otherwise and regardless of whether or not the debt due to the Owner has been reduced to judgment by a court.

**9.6 PROGRESS PAYMENTS**

- (a) After the Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Engineer. The Owner shall not be liable for interest on any late or delayed progress payment or final payment caused by any claim or dispute, any discrepancy in quantities, any failure to provide supporting documentation or other information required with the Application for Payment or as a precondition to payment under the Contract Documents, or due to any payment the Owner or the Engineer has a right to withhold or not certify under the Contract Documents. Notwithstanding the foregoing, the Owner may refuse to make payment on any Certificate for

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Payment (including, without limitation, the final Certificate for Payment) for any default under the Contract Documents, including but not limited to those defaults set forth in Subparagraph 9.5(a), Clauses (1) through (7). The Owner shall not be deemed in default by reason of withholding payment while any Contractor default remains uncured.

- (b) The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of each Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractors portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.
- (c) The Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Engineer and the Owner on account of portions of the Work done by such Subcontractor.
- (d) Neither the Owner nor the Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law. That obligation belongs to the Contractor or, in the event of the Contractor's failure to pay a Subcontractor, to the Surety on the Payment Bond as required under Paragraph 11.3.
- (e) Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6(b), (c), and (d).
- (f) A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not performed in accordance with the Contract Documents.

**9.7 SUBSTANTIAL COMPLETION**

(a) The Date of Substantial Completion of the Work, or designated portion of the Work, is the date certified by the Engineer when construction is sufficiently completed in accordance with the City Of Denton General Conditions For Building Construction.

- (a) the Contract Documents such that the Owner may beneficially occupy and use the Work, or designated portions of the Work, for the purposes for which it is intended and only trivial and insignificant items remain which do not affect the Work as a whole.
- (b) When the Contractor considers that the Work, or the portion of the Work which the Owner agrees to accept separately, is Substantially Complete, the Contractor shall prepare and submit to the Engineer a comprehensive list of remaining items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list (hereinafter called the "punch list"). Failure to include an item on the punch list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the punch list, the Engineer will make an inspection to determine whether the Work, or designated portion of the Work, is Substantially Complete. If the Engineer's inspection discloses any item, whether or not included on the punch list, which is not in accordance with the requirements of the Contract Documents and which renders the Work inspected not Substantially Complete the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct the item upon notification by the Engineer. The Contractor shall then submit a request for another inspection by the Engineer to determine Substantial Completion. When the

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Work or designated portion of the Work is Substantially Complete, the Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the punch list accompanying the Certificate.

- (c) The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of responsibilities assigned to them in the Certificate.
- (d) Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Engineer, the Owner shall make payment, reflecting adjustment in retainage, if any, for the Work, or portion of the Work, as provided in the Contract Documents.

**9.8 PARTIAL OCCUPANCY OR USE**

- (a) The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate Supplemental Agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.2(e) and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion Substantially Complete, the Contractor shall prepare and submit a list to the Engineer as provided under Subparagraph 9.7(b). Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the
  - (a) progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Engineer.
  - (b) Immediately prior to such partial occupancy or use, the Owner, Contractor, and Engineer shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
  - (c) Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

**9.9 FINAL COMPLETION AND FINAL PAYMENT**

- (a) Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Engineer, accompanied by the Owner's representative, will promptly make final inspection and, when the Engineer finds the Work acceptable under the Contract Documents and the Contract Documents fully performed, the Engineer will promptly issue a final Certificate for Payment stating that to the best of the Engineer's knowledge, information and belief, and on the basis of the Engineer's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Engineer's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.9(b) as a condition precedent to the Contractor's being entitled to final payment have been fulfilled. Owner will normally make

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- final payment within thirty (30) days after Owner's receipt and approval of the final Certificate for Payment. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise provided by separate agreement between the Owner and the Contractor.
- (b) Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Engineer:
- (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
  - (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner;
  - (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
  - (4) a consent of surety to final payment; and
  - (5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.
- (c) As a precondition to final payment by the Owner under this Contract, the Contractor's affidavit under Clause (b)(1) shall state that the Contractor has paid each of his subcontractors, laborers or materialmen in full for all labor and materials provided to him for the Work under this Contract. In the event the Contractor has not paid each of his subcontractors, laborers or materialmen in full, the Contractor shall state in the affidavit the amount owed and the name of each subcontractor, laborer or materialmen to whom such payment is owed. **IN ANY EVENT, THE CONTRACTOR SHALL BE REQUIRED TO EXECUTE THE OWNER'S STANDARD AFFIDAVIT OF FINAL PAYMENT AND RELEASE AS A PRECONDITION TO RECEIPT OF FINAL PAYMENT.**
- (d) If, after Substantial Completion of the Work, final completion of the Work is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion and the Engineer confirms the delay, the Owner shall, upon application by the Contractor and certification by the Engineer, 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 for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Engineer prior to certification of payment. Payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.
- (e) The acceptance by the Contractor of the final payment shall operate as and shall be a complete release of the Owner from all claims or liabilities under the Contract, for anything done or furnished or relating to the Work or the Project, or for any act or neglect of the Owner relating to or connected with the Work or the Project.

**ARTICLE 10 SAFETY, SECURITY AND UTILITY PROVISIONS; ENVIRONMENTAL COMPLIANCE**

**EXHIBIT 1****10.1 SAFETY PRECAUTIONS AND PROGRAMS**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract, and will comply with all applicable City, County, State and Federal health and safety regulations.

**10.2 SAFETY OF PERSONS AND PROPERTY**

- (a) The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:
- (1) employees on the Work and other persons who may be affected thereby;
  - (2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
  - (3) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- (b) The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- (c) The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.
- (d) **USE OF EXPLOSIVES IS PROHIBITED - CLAIMS AND TOTAL INDEMNIFICATION.** The Owner shall have the right to pre-approve the use of any explosives on the Project; the Contractor shall not assume in its bid that permission to use explosives will be granted. The Owner shall NOT be liable for any claim for additional time or compensation as a result of the Owner's denial of permission to use explosives. Where use of explosives is permitted by the Owner, the Contractor EXPRESSLY AGREES TO BE SOLELY RESPONSIBLE for the determination as to whether explosives shall actually be used, and for any result from the use, handling or storage of explosives, and shall INDEMNIFY, DEFEND AND HOLD COMPLETELY HARMLESS the Owner, its officers, agents and employees, and the Engineer against any and all claims, lawsuits, judgments, costs or expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, as the result of the use, handling or storage of the explosives by the Contractor or any Subcontractor, REGARDLESS OF WHETHER SAID USE, HANDLING OR STORAGE WAS NEGLIGENT OR NOT, AND REGARDLESS OF WHETHER THE DAMAGE OR INJURY WAS CONTRIBUTED TO IN ANY WAY BY THE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES, OR THE ENGINEER AND ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES. In the event of conflict with any other indemnity paragraph in this Contract, this paragraph controls. This indemnity paragraph is intended solely for the benefit of the parties to this Contract and is not intended to create or grant any rights, contractual or otherwise, to or for any other person or entity. The Contractor shall furnish the Owner and the Engineer with evidence of insurance sufficient to cover possible damage or injury, which insurance shall either include the

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Owner and the Engineer as additional insureds or be sufficiently broad in coverage as to fully protect the Owner and the Engineer.

- (e) The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2(a)(2) and 10.2(a)(3) caused in whole or in part by the Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2(a)(2) and 10.2(a)(3), except damage or loss attributable to acts or omissions of the Owner or Engineer or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor or any of its Subcontractors. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.19. To the extent that any such damage or loss may be covered by property insurance or other insurance required by the Contract Documents, the Owner and the Contractor shall exercise their best efforts to make a claim and obtain recovery from the insurers to provide for the cost, in whole or in part, of the repair work or to provide for reimbursement for such damage or loss.
- (f) The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Engineer.
- (g) The Contractor shall not load or permit any part of the Work or the Project site to be loaded so as to endanger its safety.

**10.3 EMERGENCIES**

In an emergency affecting safety, health, or security of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

**10.4 PUBLIC CONVENIENCE AND SAFETY**

- (a) The Contractor shall place materials stored about the Work and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by the Owner. Sidewalks or streets shall not be obstructed, except by special permission of the Owner. The materials excavated and the construction materials or plant used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances, and fire alarm or police call boxes in the vicinity.
- (b) The Owner reserves the right to remedy any neglect on the part of the Contractor in regard to public convenience and safety which may come to the Owner's attention, after twenty-four (24) hours notice in writing to the Contractor. In case of an emergency, the Owner shall have the right to immediately remedy any neglect without notice. In either case, the cost of any work done by the Owner to remedy the Contractor's neglect shall be deducted from the Contract Sum. The Contractor shall notify the City Traffic Control Department when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be forty-eight (48) hours in advance. The Owner reserves the right to

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postpone or prohibit any closure or obstruction of any streets or thoroughfares to the extent necessary for the safety and benefit of the traveling public. The Contractor shall, when directed by the Engineer or the Owner, keep any street or streets in condition for unobstructed use by City departments. When the Contractor is required to construct temporary bridges or make other arrangements for crossing over ditches or around structures, the Contractor's responsibility for accidents shall include the roadway approaches as well as the crossing structures.

**10.5 BARRICADES, LIGHTS AND WATCHMEN**

If the Work is carried on or adjacent to any street, alley or public place, the Contractor shall, at the Contractor's own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, shall provide sufficient watchmen, and shall take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that will be visible at night, shall indicate in bold letters thereon the Contractor's name and shall be illuminated by lights from sunset to sunrise. The term "lights," as used in this Paragraph, shall mean flares, flashers, or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices shall also be erected to keep vehicles from being driven on or into any Work under construction. The Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights and watchmen to protect the Work. Whenever evidence is found of such damage, the Engineer may order the damaged portion immediately removed and replaced by the Contractor at Contractor's cost and expense. The Contractor's responsibility for maintenance of barricades, signs, and lights, and for providing watchmen, shall not cease until the Project has been finally accepted by the Owner.

**10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED**

In case it is necessary to change or move the property of the Owner or of any telecommunications or public utility, such property shall not be removed or interfered with until ordered to do so by the Engineer. The right is reserved to the owner of any public or private utilities to enter upon the Project site for the purpose of making such changes or repairs of their property that may become necessary during the performance of the Work. The Owner reserves the right of entry upon the Project site for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures, and for making other repairs, changes, or extensions to any of the Owner's property. The Owner's actions shall conform to the Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to the Owner by the Contractor.

**10.7 ARRANGEMENT AND CHARGE FOR WATER FURNISHED BY THE OWNER; ELECTRICITY FOR THE PROJECT**

- (a) Traffic Department will supply contractor with Electricity through coordination with DME.

**10.8 USE OF FIRE HYDRANTS**

The Contractor, Subcontractors, and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve, or stop cock, or tap any water main belonging to the Owner, unless duly authorized to do so by the Denton Water Utilities Department in accordance with the Denton City Code.

**10.9 ENVIRONMENTAL COMPLIANCE**

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- (a) The Contractor and its Subcontractors are deemed to have made themselves familiar with and at all times shall comply with all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project.
- (b) In the event the Contractor encounters on the site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and removal of such materials is not a part of the scope of Work required under the Contract Documents, the Contractor shall immediately stop Work in the affected area and report in writing the facts of such encounter to the Engineer and the Owner. Work in the affected area shall not thereafter be resumed except by written order of the Owner unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. The Owner may choose to remediate the Hazardous Substance with a separate contractor or through a Change Order with the Contractor. If the Owner determines that the Hazardous Substance exists in the affected area due to the fault or negligence of the Contractor or any of its Subcontractors, the Contractor shall be responsible for remediating the condition at the sole expense of the Contractor in accordance with the Contractor's APPROVED Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by the Owner only if all remaining Work on the Project must be suspended and the delay cannot be made up elsewhere in the progress schedule. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of Paragraph 4.3 and Article 8.
- (c) The Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation, and disposal of any Hazardous Substance brought into or upon the site by the Contractor or any Subcontractor or Supplier. The Contractor shall obtain any and all permits necessary for the legal and proper handling, transportation, and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation, and disposal, notify the Owner and the Engineer so that they may observe the activities; provided, however, that it shall be the Contractor's sole responsibility to comply with all applicable laws, rules, regulations, or ordinances governing the activities.
- (d) The Contractor shall deposit surplus or waste excavation or other materials removed as part of the Work at a legal disposal site in accordance with all applicable state, federal, and local laws, rules, regulations, and ordinances. The Contractor shall submit to the Owner for review and approval all planned disposal sites or proposed uses for the surplus or waste excavation or other materials prior to removal of any excavation or other material from the Project site. A copy of all transport manifests for surplus or waste excavation or other materials shall be obtained and retained in the Contractor's records for reference purposes, to be provided upon

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request to the Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter.

- (e) The Contractor shall not install any materials in the performance of the Work that contain asbestos or asbestos-related material such as hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophyllite or actinolite, whether friable or non-friable.
- (f) The Owner reserves the right in its sole option to exercise the following remedies (without waiving the right to pursue the imposition of any civil or criminal fines or penalties that may be imposed under state, federal, or local laws or ordinances), at no additional cost to the Owner and without an extension of the Contract Time, in the event the Contractor fails or refuses after seven (7) days advance written notice from the Owner to comply with the provisions of this Paragraph 10.10, the terms of the SPRP, the terms of the Clean Air Management Plan, any storm water permit or other environmental permit issued in connection with the Work, or any applicable environmental law, rule, regulation, or ordinance:
  - (1) suspend all or any portion of the Work until the noncompliance is corrected, or until a detailed plan to achieve compliance within a reasonably prompt period of time is prepared by the Contractor and approved by the Owner;
  - (2) if the Contractor fails to properly address the noncompliance within the time stipulated by the Owner, perform the necessary remediation or correction work and backcharge the Contractor for the cost of the remediation or correction; or
  - (3) terminate the Contract for cause as provided in Article 13.

**ARTICLE 11 INSURANCE AND BONDS**

**11.1 CONTRACTOR'S INSURANCE**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

**11.2 PROPERTY INSURANCE**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

**11.3 'UMBRELLA' LIABILITY INSURANCE**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

**11.4 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

**11.6 PERFORMANCE AND PAYMENT BONDS**

- (a) Subject to the provisions of Subparagraph 11.3(b), the Contractor shall, with the execution and delivery of the Construction Services Agreement, furnish and file with the Owner in the amounts required in this Paragraph, the surety bonds described in Clauses (a)(1) and (a)(2) below, which surety bonds shall be in accordance with the Charter of the City of Denton and the provisions of Chapter 2253, Texas Government Code, as amended; each bond shall be signed by the Contractor, as Principal, and by an established bonding company, as surety, meeting the requirements of Subparagraph 11.3(c) and approved by the Owner. The surety bonds shall be

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accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign:

- (1) **Performance Bond.** A good and sufficient bond in an amount equal to 100% of the total Contract Sum, guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any Amendments thereof, for the protection of the Owner. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of two (2) year from the date of final completion and acceptance of the improvements by the Owner or lesser or longer periods as may be otherwise designated in the Contract Documents.
  - (2) **Payment Bond.** A good and sufficient bond in an amount equal to 100% of the total Contract Sum, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract Documents and any Amendments thereto, and for the use and protection of each claimant.
- (b) If the Contract Sum, including Owner-accepted alternates and allowances, if any, is greater than \$100,000, Performance in 100% of the Contract Sum are mandatory and shall be provided by the Contractor. If the Contract Sum is greater than \$50,000 but less than or equal to \$100,000, only a Payment Bond in 100% of the Contract amount is mandatory; provided, however, that the Contractor may elect to furnish a Performance Bond in the same amount if the Contractor so chooses. If the Contract Sum is less than or equal to \$25,000, the Contractor may elect not to provide Performance and Payment Bonds; provided that in such event, no money will be paid to the Contractor until final completion and acceptance of all work by Owner. If the Contractor elects to provide Performance and Payment Bonds 100% of the total Contract Sum, progress payments in accordance with these General Conditions shall be disbursed.
- (c) No surety will be accepted by the Owner who is now in default or delinquent on any bonds or who is a party to any litigation against the Owner. All bonds shall be made and executed on the Owner's standard forms, shall be approved by the Owner, and shall be executed by not less than one corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties, and is otherwise acceptable to the Owner. Each bond shall be executed by the Contractor and the surety, and shall specify that legal venue for enforcement of each bond shall lie exclusively in Denton County, Texas. Each surety shall designate an agent resident in Denton County, Texas to whom any requisite statutory notices may be delivered and on whom service of process may be had in matters arising out of the suretyship.
- (d) The person or persons, partnership, company, firm, Limited Liability Company, association, corporation, or other business entity to whom the Contract is awarded shall, within ten (10) days after such award, sign the required Contract with the Owner and provide the necessary surety bonds and evidence of insurance as required under the Contract Documents. No Contract shall be binding on the Owner until it has been approved as to form by the City Attorney, executed for the Owner by the City Manager, the performance and payment bonds and evidence of insurance have been furnished as required by the Contract Documents, and the fully executed contract has been delivered to the Contractor.

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- (e) The failure of the Contractor to execute the Contract or deliver the required statutory bonds and evidence of insurance within ten (10) days after the Contract is awarded or as soon thereafter as the Owner can assemble and deliver the Contract shall constitute a material breach of the Contractor's bid proposal and the Owner may rescind the Contract award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices or materials and labor, and it being impracticable and difficult to determine accurately the amount of damages occurring to the Owner by reason of the Contractor's failure to execute and furnish the statutory bonds and to sign the Contract within ten (10) days, the filing of a bid proposal with the accompanying bid security will be considered as an acceptance of this Subparagraph 11.3(e). In the event the Owner should re-advertise for bids, the defaulting Contractor shall not be eligible to bid, and the lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this Paragraph.

**ARTICLE 12 DEFECTIVE AND NONCONFORMING WORK****12.1 UNCOVERING OF WORK**

- (a) If a portion of the Work is covered contrary to the Engineer's request or to requirements specifically expressed in the Contract Documents, the Work must, if required in writing by the Engineer, be uncovered for the Engineer's observation and be replaced at the Contractor's expense without change in the Contract Time.
- (b) If a portion of the Work has been covered which the Engineer has not specifically requested to observe prior to it being covered, the Engineer may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If any Work is not in accordance with the Contract Documents, the Contractor shall pay the costs of uncovering, repair, replacement unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

**12.2 CORRECTION OF WORK**

- (a) The Contractor shall promptly correct Work rejected by the Engineer as failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Engineer's services and expenses made necessary thereby.
- (b) If any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Engineer or the Owner to do so unless the Owner has previously given the Contractor a written acceptance or waiver of the defect or nonconformity. The Contractor's obligation to correct defective or nonconforming Work remains in effect for:
- (1) one year after the date of Substantial Completion of the Work or designated portion of the Work;
  - (2) one year after the date for commencement of warranties established by agreement in connection with partial occupancy under Subparagraph 9.8(a); or

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- (3) the stipulated duration of any applicable special warranty required by the Contract Documents.
- (c) The one-year period described in Clauses (b)(1) and (b)(2) shall be extended with respect to portions of the Work performed, repaired, or corrected after Substantial Completion by the period of time between Substantial Completion and the actual completion of the Work.
- (d) The obligations of the Contractor under this Paragraph 12.2 shall survive final acceptance of the Work and termination of this Contract. The Owner shall give notice to the Contractor promptly after discovery of a defective or nonconforming condition in the Work. The one-year period stated in Clauses (b)(1) and (b)(2) does not limit the ability of the Owner to require the Contractor to correct latent defects or nonconformities in the Work, which defects or nonconformities could not have been discovered through reasonable diligence by the Owner or the Engineer at the time the Work was performed or at the time of inspection for certification of Substantial Completion or Final Completion. The one year period also does not relieve the Contractor from liability for any defects or deficiencies in the Work that may be discovered after the expiration of the one year correction period.
- (e) The Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- (f) If the Contractor fails to correct defective or nonconforming Work within a reasonable time after notice from the Owner or the Engineer, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of defective or nonconforming Work within a reasonable time fixed by written notice from the Engineer, the Owner may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of removal and storage within ten days after written notice, the Owner may, upon ten (10) additional days written notice, sell the materials and equipment at auction or at private sale and shall account for the proceeds after deducting costs and damages that should have been borne by the Contractor, including compensation for the Engineer's services and expenses made necessary as a result of the sale. If the proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to the Contractor then or thereafter are not sufficient to cover the deficiency, the Contractor shall pay the difference to the Owner.
- (g) The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether the construction is completed or partially completed, that is caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.
- (h) Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the one-year time period as described in Subparagraph 12.2(b) relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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- (i) Any Work repaired or replaced pursuant to this Article 12 shall be subject to the provisions of Article 12 to the same extent as Work originally performed or installed.

### 12.3 ACCEPTANCE OF NONCONFORMING WORK

The Owner may, in the Owner's sole discretion, accept Work which is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. The adjustment will be accomplished whether or not final payment has been made.

## ARTICLE 13 COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION

### 13.1 FINAL COMPLETION OF CONTRACT

The Contract will be considered completed, except as provided in any warranty or maintenance stipulations, bond, or by law, when all the Work has been finally completed, the final inspection is made by the Engineer, and final acceptance and final payment is made by the Owner.

### 13.2 WARRANTY FULFILLMENT

Prior to the expiration of the specified warranty period provided for in the Contract Documents, the Engineer will make a detailed inspection of the Work and will advise the Contractor and the Contractor's Surety of the items that require correction. The Engineer will make a subsequent inspection and if the corrections have been properly performed, the Engineer will issue a letter of release on the maintenance stipulations to the Contractor and the Surety. If for any reason the Contractor has not made the required corrections before the expiration of the warranty period, the warranty provisions as provided for in the Contract Documents shall remain in effect until the corrections have been properly performed and a letter of release issued.

### 13.3 TERMINATION BY THE OWNER FOR CAUSE

- (a) Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by the Owner for any good cause after giving seven (7) days advance written notice and opportunity to cure to the Contractor, including but not limited to the following causes:
  - (1) Failure or refusal of the Contractor to start the Work within ten (10) days after the date of written notice by the Owner to commence the Work.
  - (2) A reasonable belief that the progress of the Work being made by the Contractor is insufficient to complete the Work within the specified time.
  - (3) Failure or refusal of the Contractor to provide sufficient and proper equipment or construction forces to properly execute the Work in a timely manner.
  - (4) A reasonable belief that the Contractor has abandoned the Work.
  - (5) A reasonable belief that the Contractor has become insolvent, bankrupt, or otherwise financially unable to carry on the Work.

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- (6) Failure or refusal on the part of the Contractor to observe any requirements of the Contract Documents or to comply with any written orders given by the Engineer or the Owner as provided for in the Contract Documents.
  - (7) Failure or refusal of the Contractor to promptly make good any defects in materials or workmanship, or any defects of any nature, the correction of which has been directed in writing by the Engineer.
  - (8) A reasonable belief by the Owner that collusion exists or has occurred for the purpose of illegally procuring the Contract or a Subcontractor, or that a fraud is being perpetrated on the Owner in connection with the construction of Work under the Contract.
  - (9) Repeated and flagrant violation of safe working procedures.
  - (10) The filing by the Contractor of litigation against the Owner prior to completion of the Work.
- (b) When the Work or any portion of the Work is terminated for any of the causes itemized above or for any other cause except termination for convenience pursuant to Subparagraph 13.3(e), the Contractor shall, as of the date specified by the Owner, discontinue the Work or portion of the Work as the Owner shall designate, whereupon the surety shall, within fifteen (15) days after the written notice of termination for cause has been served upon the Contractor and the surety or its authorized agents, assume the obligations of the Contractor for the Work or that portion of the Work which the Owner has ordered the Contractor to discontinue and may:
- (1) perform the Work with forces employed by the surety;
  - (2) with the written consent of the Owner, tender a replacement contractor to take over and perform the Work, in which event the surety shall be responsible for and pay the amount of any costs required to be incurred for the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or
  - (3) with the written consent of the Owner, tender and pay to the Owner in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming Work, and compensate the Owner for any other loss sustained as a result of Contractor's default.

In the event of termination for cause involving Clause (b)(1) or (b)(2), the Surety shall assume the Contractor's place in all respects, and the amount of funds remaining unpaid under the Contract shall be paid by the Owner for all Work performed by the surety or the replacement contractor in accordance with the terms of the Contract Documents, subject to any rights of the Owner to deduct any costs, damages, or liquidated or actual damages that the Owner may have incurred, including but not limited to additional fees and expenses of the Engineer and attorneys fees, as a result of such termination.

- (c) The balance of the Contract Sum remaining at the time of the Contractor's default and of the termination shall become due and payable to the surety as the Work progresses, subject to all of the terms, covenants, and conditions of the Contract Documents. If the surety does not, within the time specified in Subparagraph 13.3(b), exercise its obligation to assume the obligations of the Contract, or that portion of the Contract which the Owner has ordered the

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Contractor to discontinue, then the Owner shall have the power to complete the Work by contract or otherwise, as it may deem necessary. The Contractor agrees that the Owner shall have the right to take possession of or use any or all of the materials, plant, tools, equipment, supplies, and property of every kind provided by the Contractor for the purpose of the Work, and to procure other tools, equipment, labor, and materials for the completion of the Work, and to charge to the account of the Contractor the expenses of completion and labor, materials, tools, equipment, and incidental expenses. The expenses incurred by the Owner to complete the Work shall be deducted by the Owner out of the balance of the Contract Sum remaining unpaid to or unearned by the Contractor. The Contractor and the surety shall be liable to the Owner for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other costs, damages, expenses (including but not limited to additional fees of the Engineer and attorney's fees), and liquidated or actual damages incurred as a result of the termination.

- (d) The Owner shall not be required to obtain the lowest bid for the Work of completing the Contract as described in Subparagraph 13.3(c), but the expenses to be deducted from the Contract Sum shall be the actual cost of such Work. In case the Owner's expense is less than the sum which would have been payable under the Contract, if the same had been completed by the Contractor, then the Owner may pay to the Contractor (or the Surety, in the event of a complete termination for cause) the difference in the cost, provided that the Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such expenses for completion shall exceed the amount which would have been payable under the Contract if the same had been completed by the Contractor, then the Contractor and his Sureties shall pay the amount of the excess to the Owner on notice from the Owner for excess due. When only a particular part of the Work is being carried on by the Owner by contract or otherwise under the provisions of this Subparagraph, the Contractor shall continue the remainder of the Work in conformity with the terms of the Contract, and in such manner as not to hinder or interfere with the performance of workmen employed and provided by the Owner.
- (e) The right to terminate this Contract for the convenience of the Owner (including but not limited to nonappropriation of funding) is expressly retained by the Owner. In the event of termination for convenience, the Owner shall deliver at least ten (10) days advance written notice of termination for convenience to the Contractor. Upon the Contractor's receipt of such written notice, the Contractor shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work in place. The Contractor shall then be reimbursed by the Owner in accordance with the terms and provisions of the Contract Documents, not to exceed actual labor costs incurred, materials stored at the Project site or away from the Project site as approved by the Owner but not yet paid for, plus actual, reasonable, and documented termination charges, if any, paid by the Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents to the date of termination for convenience. No amount shall ever be due to the Contractor for lost or anticipated profits.

**13.4 TEMPORARY SUSPENSION OF THE WORK**

- (a) The Work or any portion of the Work may be temporarily suspended by the Owner immediately upon written notice to the Contractor for any reason, including but not limited to:
  - (1) the causes described in Clauses 13.1(a)(1) through (a)(10) above;

## EXHIBIT 1

- (2) where other provisions in the Contract Documents require or permit temporary suspension of the Work;
  - (3) situations where the Work is threatened by, contributes to, or causes an immediate threat to public health, safety, or security; or
  - (4) other unforeseen conditions or circumstances.
- (b) The Contractor shall immediately resume the temporarily suspended Work when ordered in writing by the Owner to do so. The Owner shall not under any circumstances be liable for any claim of the Contractor arising from a temporary suspension due to a cause described in Clause (a)(1) above; provided, however, that in the case of a temporary suspension for any of the reasons described under Clauses (a)(2) through (a)(4), where the Contractor is not a contributing cause of the suspension under one of those Clauses or where the provision of the Contract Documents in question specifically provides that the suspension is at no cost to the Owner, the Owner will make an equitable adjustment for the following items, provided that a claim is properly made by the Contractor under Subparagraph 4.3 of these General Conditions:
- (1) an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension as determined by the Engineer and the Owner;
  - (2) an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable costs of properly protecting any Work that is finished or partially finished during the period of the temporary suspension (no profit and overhead shall be allowed on top of these costs); and
  - (3) if it becomes necessary to move equipment from the Project site and then return it to the Project site when the Work is ordered to be resumed, an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable cost of these moves; provided, however, that no adjustment shall be due if the equipment is moved to another Project site of the Owner.

## ARTICLE 14 MISCELLANEOUS PROVISIONS

### 14.1 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS

- (a) This Contract shall be governed by the laws and case decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.
- (b) This Contract is entered into subject to and controlled by the Charter and ordinances of the City of Denton and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. The Contractor shall, during the performance of the Work, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

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**14.2 SUCCESSORS AND ASSIGNS**

The Owner and the Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the promises, covenants, terms, conditions, and obligations contained in the Contract Documents. The Contractor shall not assign, transfer, or convey its interest or rights in the Contract, in part or as a whole, without written consent of the Owner. If the Contractor attempts to make an assignment, transfer, or conveyance without the Owner's written consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract Documents. The Owner shall not assign any portion of the Contract Sum due or to become due under this Contract without the written consent of the Contractor, except where assignment is compelled or allowed by court order, the terms of the Contract Documents, or other operation of law.

**14.3 WRITTEN NOTICE**

Except as otherwise provided in Article 16, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid to the Project Manager or Superintendent of either party, or to an officer, partner, or other designated representative of either party. Mailed notices shall be addressed to the parties at an address designated by each party, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

**14.4 RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY OWNER**

(a) The duties and obligations imposed on the Contractor by the Contract Documents and the rights and remedies available to the Owner under the Contract Documents shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or made available by law.

(b) No action or failure to act by the Owner shall constitute a waiver of a right afforded the Owner under the Contract Documents, nor shall any action or failure to act by the Owner constitute approval of or acquiescence in a breach of the Contract by Contractor, except as may be specifically agreed in writing by Change Order or Supplemental Agreement.

**14.5 INTEREST**

The Owner shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to Paragraph 9.6(a) of these General Conditions.

**14.6 OFFICERS OR EMPLOYEES OF THE OWNER NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF THE OWNER**

No officer or employee of the Owner shall have a financial interest, direct or indirect, in any Contract with the Owner, or be financially interested, directly or indirectly, in the sale to the Owner of any land, materials, supplies or services, except on behalf of the Owner as an officer or employee. Any violation of this article shall constitute malfeasance in office, and any officer or employee of Owner guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with the Owner shall render the Contract involved voidable by the Owner's City Manager or City Council.

**EXHIBIT 1****14.7 VENUE**

This Contract is deemed to be performed in Denton County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in Denton County, Texas.

**14.8 INDEPENDENT CONTRACTOR**

In performing the Work under this Contract, the relationship between the Owner and the Contractor is that of an independent contractor. The Contractor shall exercise independent judgment in performing the Work and is solely responsible for setting working hours, scheduling or prioritizing the Work flow and determining the means and methods of performing the Work, subject only to the requirements of the Contract Documents. No term or provision of this Contract shall be construed as making the Contractor an agent, servant, or employee of the Owner, or making the Contractor or any of the Contractor's employees, agents, or servants eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which the Owner provides to its employees.

**14.9 NONDISCRIMINATION**

As a condition of this Contract, the Contractor covenants that he will take all necessary actions to insure that, in connection with any work under this Contract, the Contractor and its Subcontractors will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. The Contractor shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, the Contractor shall keep, retain and safeguard all records relating to his Contract or Work performed thereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of the Owner, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

**14.10 GIFTS TO PUBLIC SERVANTS**

- (a) The Owner may terminate this Contract immediately if the Contractor has offered, conferred, or agreed to confer any benefit on a City of Denton employee or official that the City of Denton employee or official is prohibited by law from accepting.
- (b) For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.
- (c) Notwithstanding any other legal remedies, the Owner may require the Contractor to remove any employee of the Contractor from the Project who has violated the restrictions of this Article or any similar State or Federal law, and obtain reimbursement for any expenditures made to the Contractor as a result of the improper offer, agreement to confer, or conferring of a benefit to a City of Denton employee or official.

**ARTICLE 15 RIGHT TO AUDIT CONTRACTOR'S RECORDS**

By execution of the Building Construction Services Agreement, the Contractor grants the Owner the right to audit, at the Owner's election, all of the Contractor's records and billings relating to the performance of the Work under the Contract Documents. The Contractor agrees to retain its Project records for a minimum of five (5) years following completion of the Work. The Owner agrees that it will exercise the right to audit only at reasonable hours. City may review any and all of the services

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performed by Contractor under this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City's rights as may be disclosed by an audit under this section.

**ARTICLE 16 NOTICE OF CONTRACT CLAIM**

This Contract is subject to the provisions of the Denton City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Contractor shall comply with the requirements of this ordinance as a precondition of any litigation relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

**Should a conflict arise between the PO, RFP document, supplier terms, or contract; the terms and conditions set forth in the negotiated contract shall prevail.**

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**Exhibit "C"**  
**INSURANCE REQUIREMENTS AND**  
**WORKERS' COMPENSATION REQUIREMENTS**

*Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.*

**STANDARD PROVISIONS:**

*Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.*

*As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.*

*All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:*

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- VII or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:
  - Name as Additional Insured the City of Denton, its Officials, Agents, Employees and volunteers.
  - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

**EXHIBIT 1**

- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.
- Concerning the insurance to be furnished by the Contractor, it is a condition precedent to acceptability that:
  - (1) All policies must comply with the applicable requirements and special provisions of Attachment A.
  - (2) Any policy evidenced by a certificate of insurance or submitted for review shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements set forth herein, and the Owner's decision regarding whether any policy contains such provisions, contrary to this requirement, shall be final.
- The Contractor agrees to the following special provisions:
  - (1) The Contractor hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against the Owner, it being the intention that the insurance policies shall protect all parties to the Contract and be primary coverage for all losses covered by the policies. This waiver of subrogation shall be included, by endorsement or otherwise, as a provision of all policies required under Attachment A.
  - (2) Insurance companies issuing the insurance policies and the Contractor shall have no recourse against the Owner for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of Contractor.
  - (3) Approval, disapproval or failure to act by the Owner regarding any insurance supplied by the Contractor (or any Subcontractors) shall not relieve the Contractor of any responsibility or liability for damage or accidents as set forth in the Contract Documents. The bankruptcy, insolvency or denial of liability of or by the Contractor's insurance company shall likewise not exonerate or relieve the Contractor from liability.
  - (4) The Owner reserves the right to review the insurance requirements of this Attachment A during the effective period of this Contract and to modify insurance coverage's and their limits when deemed necessary and prudent by the Owner's Risk Management Division, based upon economic conditions, the recommendation of professional insurance advisors, changes in statutory law, court decisions or other relevant factors. The Contractor agrees to make any reasonable request for deletion, revision or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either party to this Contract or upon the underwriter of any such policy provisions). Upon request by the Owner, the Contractor shall exercise reasonable efforts to accomplish such changes in policy coverage's and shall pay the cost thereof.

**EXHIBIT 1**

- (5) No special payments shall be made for any insurance policies that the Contractor and Subcontractors are required to carry; all are included in the stated Contract value.

**SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:**

*All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:*

**[X] A. General Liability Insurance:**

General Liability insurance with combined single limits of not less than **\$1,000,000.00** shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability Form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:

- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

**[X] Automobile Liability Insurance:**

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **\$500,000** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

**Satisfaction of the above requirement shall be in the form of a policy endorsement for:**

- any auto, or
- all owned hired and non-owned autos.

**[X] Workers' Compensation Insurance**

Contractor shall purchase and maintain Workers' Compensation insurance which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's Liability limits of at least \$100,000 for each accident, \$100,000 per each employee, and a \$500,000 policy limit for occupational disease. The City need not be named as an "Additional Insured" but the insurer shall agree to waive all rights of subrogation against the City, its officials, agents, employees and volunteers for any work performed for the City by the Named Insured. For building or construction projects, the Contractor shall comply with the provisions of Attachment 1 in accordance with §406.096 of the Texas Labor Code and rule 28TAC 110.110 of the Texas Workers' Compensation Commission (TWCC).

**EXHIBIT 1**

**Owner's and Contractor's Protective Liability Insurance**

The Contractor shall obtain, pay for and maintain at all times during the prosecution of the work under this contract, an Owner's and Contractor's Protective Liability insurance policy naming the City as insured for property damage and bodily injury which may arise in the prosecution of the work or Contractor's operations under this contract. Coverage shall be on an "occurrence" basis and the policy shall be issued by the same insurance company that carries the Contractor's liability insurance. Policy limits will be at least \$500,000.00 combined bodily injury and property damage per occurrence with a \$1,000,000.00 aggregate.

**Fire Damage Legal Liability Insurance**

Coverage is required if Broad form General Liability is not provided or is unavailable to the contractor or if a contractor leases or rents a portion of a City building. Limits of not less than \_\_\_\_\_ each occurrence are required.

**Professional Liability Insurance**

Professional liability insurance with limits not less than \$1,000,000.00 per claim with respect to negligent acts, errors or omissions in connection with professional services is required under this Agreement.

**EXHIBIT 1**

**Builders' Risk Insurance**

Builders' Risk Insurance, on an All-Risk form for 100% of the completed value shall be provided. Such policy shall include as "Named Insured" the City of Denton and all subcontractors as their interests may appear.

**Commercial Crime**

Provides coverage for the theft or disappearance of cash or checks, robbery inside/outside the premises, burglary of the premises, and employee fidelity. The employee fidelity portion of this coverage should be written on a "blanket" basis to cover all employees, including new hires. This type insurance should be required if the contractor has access to City funds. Limits of not less than \$ \_\_\_\_\_ each occurrence are required.

**Additional Insurance**

Other insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Specific Conditions" of the contract specifications.

**Umbrella Liability Insurance**

Depending on the size of the project, the City may require the Contractor to obtain, pay for, and maintain umbrella liability insurance during the Contract term, insuring Contractor for an amount of not less than \$3,000,000 per occurrence combined limit for Bodily Injury (including death) and Property Damage, that follows form and applies in excess of the primary coverage required hereinabove. The Owner and Engineer shall be named as additional insureds using the broadest form of endorsement available, with such status extended to include the extension of the completed operations coverage as described in this Attachment. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

**EXHIBIT 1**

**ATTACHMENT A**

**[X] Workers' Compensation Coverage for Building or Construction Projects for Governmental Entities**

**A. Definitions:**

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
  - 1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
  - 2. no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

**EXHIBIT 1**

- F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
  - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
  - 2. provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
  - 3. provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - 4. obtain from each other person with whom it contracts, and provide to the contractor:
    - a. a certificate of coverage, prior to the other person beginning work on the project; and
    - b. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
  - 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
  - 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

**EXHIBIT 1**

- J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

**EXHIBIT 1**

**EXHIBIT 1**

**Exhibit "D"  
PERFORMANCE BOND**

Bond#3375534

STATE OF TEXAS §

COUNTY OF DENTON §

KNOW ALL MEN BY THESE PRESENTS: That Durable Specialties, Inc. whose address is 2302 Paddock Way Dr Grand Prairie, TX\* hereinafter called Principal, and Great American Insurance Company of New York a corporation organized and existing under the laws of the State of NY, and fully authorized to transact business in the State of Texas, as Surety, are held and firmly bound unto the City of Denton, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter called Owner, in the penal sum of Two Hundred and Fifty Thousand and no/100 DOLLARS (\$250,000.00) in lawful money of the United States, to be paid in Denton County, Texas, for the payment of which sum well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

\*75050

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract, identified by Ordinance Number 2014- 089, with the City of Denton, the Owner, dated the 1 day of April A.D. 2014, a copy of which is hereto attached and made a part hereof, for RFP # 5442 Construction of Traffic Intersections,

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the Plans, Specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Owner, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of final completion and final acceptance of the Work by the Owner; and, if the Principal shall fully indemnify and save harmless the Owner from all costs and damages which Owner may suffer by reason of failure to so perform herein and shall fully reimburse and repay Owner all outlay and expense which the Owner may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

**EXHIBIT 1**

EXHIBIT 1

PROVIDED FURTHER, that if any legal action be filed upon this Bond, exclusive venue shall lie in Denton County, State of Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Denton County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in four copies, each one of which shall be deemed an original, this the 1 day of April, 2014. ✓

ATTEST:

PRINCIPAL

BY: Carol Ann Richter  
SECRETARY

Durable Specialties, Inc.  
BY: Jeffrey C. Boyer  
PRESIDENT

ATTEST:

SURETY

BY: [Signature]

Great American Insurance Company of New York  
BY: [Signature]  
ATTORNEY-IN-FACT Jack M Crowley

The Resident Agent of the Surety in Denton County, Texas for delivery of notice and service of the process is:

NAME: Southwest Assurance Group, Inc., / Bret Tomlinson

STREET ADDRESS: 124 Old Town Blvd., #200, Argyle, TX 76226

(NOTE: Date of Performance Bond must be date of Contract. If Resident Agent is not a corporation, give a person's name.)

OK  
5/2/2014  
SP

**EXHIBIT 1**

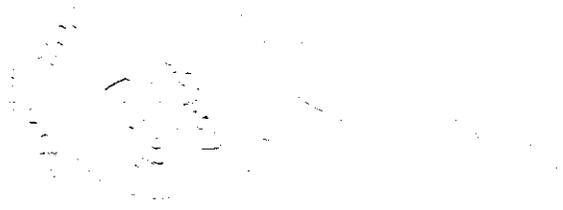


EXHIBIT 1

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK

New York

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than FOUR

No. 0 19950

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK, a corporation organized and existing under and by virtue of the laws of the State of New York, does hereby nominate, constitute and appoint the person or persons named below its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Table with 3 columns: Name, Address, Limit of Power. Rows include JACK M. CROWLEY, PATRICIA A. SMITH, STEVEN R. FOSTER, MARIE PERRYMAN, ADDISON, TEXAS.

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF, the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 29TH day of NOVEMBER, 2012.

Attest

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK



Assistant Secretary

Divisional Senior Vice President

DAVID C. KITCHIN (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON-ss:

On this 29TH day of NOVEMBER, 2012, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company of New York, the Company described in and which executed the above instrument; that he knows the seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



KAREN L. GROSHEIM
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 02-20-16

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company of New York by unanimous written consent dated May 14, 2009.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company of New York, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of May 14, 2009 have not been revoked and are now in full force and effect.

Signed and sealed this 1st day of April

2014



Assistant Secretary

Handwritten initials/signature

**EXHIBIT 1**



EXHIBIT 1

Exhibit "D"  
PAYMENT BOND

Bond#3375534

STATE OF TEXAS §

COUNTY OF DENTON §

KNOW ALL MEN BY THESE PRESENTS: That Durable Specialties, Inc. whose address is 2302 Paddock Way Drive, Grand Prairie, TX 75050, hereinafter called Principal, and Great American Insurance Co of NY, a corporation organized and existing under the laws of the State of Texas, and fully authorized to transact business in the State of Texas, as Surety, are held and firmly bound unto the City of Denton, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter called Owner, and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon, the building or improvements hereinafter referred to, in the penal sum of Two Hundred and Fifty Thousand and no/100 DOLLARS ~~(\$250,000.00)~~ in lawful money of the United States, to be paid in Denton, County, Texas, for the payment of which sum well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract, identified by Ordinance Number 2014- 089, with the City of Denton, the Owner, dated the 1 day of April A.D. 2014, a copy of which is hereto attached and made a part hereof, for RFP# 5442-Construction of Traffic Control Intersections.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in said Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed on this Bond, exclusive venue shall lie in Denton County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc.

**EXHIBIT 1**

EXHIBIT 1

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Denton County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such surety, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in four copies, each one of which shall be deemed an original, this the 1 day of April, 2014.

ATTEST:

PRINCIPAL

BY: Carol Ann Richter  
SECRETARY

Durable Specialties, Inc.  
BY: Jeffrey C. Boyer  
PRESIDENT

ATTEST:

SURETY:

BY: [Signature]

Great American Insurance Company of New York  
BY: Jack M. Crowley  
ATTORNEY-IN-FACT

The Resident Agent of the Surety in Denton County, Texas for delivery of notice and service of the process is:

NAME: Southwest Assurance Group, Inc./ Bret Tomlinson

STREET ADDRESS: 124 Old Town Blvd., #200, Argyle, TX 76226

(NOTE: Date of Payment Bond must be date of Contract. If Resident Agent is not a corporation, give a person's name.)

OK  
5/16/2014  
SP

**EXHIBIT 1**

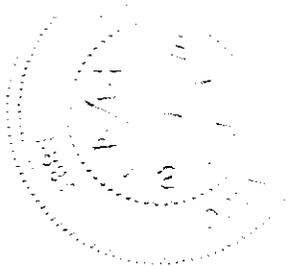


EXHIBIT 1

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK

New York

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than FOUR

No. 0 19950

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK, a corporation organized and existing under and by virtue of the laws of the State of New York, does hereby nominate, constitute and appoint the person or persons named below its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
JACK M. CROWLEY	PATRICIA A. SMITH	ALL
STEVEN R. FOSTER	MARIE PERRYMAN	\$75,000,000.00
	ADDISON, TEXAS	

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF, the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 29TH day of NOVEMBER, 2012.

Attest

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK



Assistant Secretary

David C. Kitchin

Divisional Senior Vice President

DAVID C. KITCHIN (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON-ss:

On this 29TH day of NOVEMBER, 2012, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company of New York, the Company described in and which executed the above instrument; that he knows the seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



KAREN L. GROSHEIM
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 02-20-16

Karen L. Grosheim

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company of New York by unanimous written consent dated May 14, 2009.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company of New York, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of May 14, 2009 have not been revoked and are now in full force and effect.

Signed and sealed this 1st day of April, 2014

2014



Assistant Secretary

OK 5/16/14 SP

**EXHIBIT 1**

*[Faint, illegible handwritten or stamped text]*

**EXHIBIT 1**



**Great American Insurance Company of New York  
Great American Alliance Insurance Company  
Great American Insurance Company**

**IMPORTANT NOTICE:**

To obtain information or make a complaint:

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

**1-800-252-3439**

You may write the Texas Department of Insurance at:

P.O. Box 149104  
Austin, TX 78714-9104  
FAX # 1-512-475-1771

Your notice of claim against the attached bond may be given to the surety company that issued the bond by sending it by certified or registered mail to the following address:

Mailing Address: Great American Insurance Company Claim  
P.O. Box 2575  
Cincinnati, Ohio 45201-2575

Physical Address: Great American Insurance Company Claim  
580 Walnut Street  
7th Floor  
Cincinnati, Ohio 45202-3180

You may also contact the Great American Insurance Company Claim office by telephone at:

Telephone Number: 1-513-369-5069

**PREMIUM OR CLAIM DISPUTES:**

If you have a dispute concerning a premium, you should contact the agent first. If you have a dispute concerning a claim, you should contact the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

**ATTACH THIS NOTICE TO YOUR BOND:**

This notice is for information only and does not become a part or condition of the attached document.

**EXHIBIT 1**

**EXHIBIT 1**

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**EXHIBIT 1**

**DURABLE SPECIALTIES, INC.**

EXHIBIT 1

Exhibit "F"

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P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

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**RFP #5442**

**CONSTRUCTION OF TRAFFIC  
CONTROL INTERSECTIONS  
FOR THE CITY OF DENTON**

## City of Denton: RFP 5442

### Statement of the Contractor's Understands of the Project Requirements

- It is Durable Specialties, Inc. understanding we will be providing a turnkey construction of new traffic signals, modification to existing traffic signals and span wire traffic signal installations. Pavement markings to be performed by others.
- Installation of traffic signals will be on a work order basis with a work.
- The contract is for one year with an option for renewal after one year.
- The goal is to perform installation of traffic signals in a timely manner and to the standards and expectations of the City of Denton.
- The unique and long lead items will be supplied by the City of Denton; i.e. controller cabinets, vehicle detection equipment, preemption equipment, communication equipment, surveillance equipment, signal housings & LEDs, traffic signal pole assemblies and etc.
- Durable Specialties, Inc. will supply the concrete, conduit, wire, cable, pull boxes, signal head mounting hardware, sign mounting hardware, electrical services, wood poles and down guys where indicated by their corresponding pay item.

EXHIBIT 1  
**DURABLE SPECIALTIES, INC.**

Exhibit "F"

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## City of Denton: RFP 5442

### Organization

A. Durable Specialties, Inc.

**Physical Address:**

2302 Paddock Way Drive  
Grand Prairie, TX  
75050

**Mailing Address:**

PO BOX 535969  
Grand Prairie, TX  
75053-5969

B. Durable Specialties, Inc. has been in business since 1984 as a traffic signal contractor providing turnkey traffic signal installation for North Texas Municipalities and TxDot.

C. Business Profile:

- 1) Corporation
- 2) Established in 1984, 30 years doing business
- 3) 65 Employees
- 4) Specializing in traffic signal installation
- 5) 972-296-6324 Phone; 972-780-7411 Fax
- 6) 30 Years in business
- 7) Not Applicable
- 8) Single office location
- 9) Single office location
- 10) We provide turnkey traffic signal installation and own all of own equipment to provide this service.
- 11) Drew Shipman; 817-401-3070 Cell; [drew@durablespecialties.com](mailto:drew@durablespecialties.com)

Attached is our previous work experience and references.

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

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## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2007		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 215,250.00	TRAFFIC SIGNAL	2007/702	AUSTIN 183A - TURNPIKE	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 219,500.00	TRAFFIC SIGNAL SYSTEM UPGRADE	2007/704	CITY OF DESOTO VARIOUS LOCATIONS	CITY OF DESOTO 211 E. PLEASANT RUN RD DESOTO, TEXAS 75115
\$ 102,750.00	TRAFFIC SIGNAL	2007/706	GRAND PRAIRIE DORYN DR. & MAGNA CARTA	SPRING VALLEY CONSTRUCTION 10950 ALDER CIRCLE DALLAS, TEXAS 75238-1353
\$ 357,900.00	ADAPTIVE CONTROL SIGNAL SYS	2007/708	TYLER US 69	CITY OF TYLER PO BOX 2039 TYLER, TEXAS 75710
\$ 120,921.50	TRAFFIC SIGNAL	2007/710	SEAGOVILLE DIVIDEND DR. & POINT WEST BLVD	DUKE CONSTRUCTION 5495 BELTLINE RD #360 DALLAS, TEXAS 75254
\$ 122,750.00	TRAFFIC SIGNAL	2007/711	DENTON FM 407	ED BELL CONSTRUCTION PO BOX 540787 DALLAS, TEXAS 75354-0787
\$ 206,150.00	TRAFFIC SIGNAL	2007/712	DALLAS N. GALLOWAY AVE TO BELTLINE RD	REBCON, INC. 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 107,500.00	TRAFFIC SIGNAL	2007/714	WISE FM 51 & PRESKITT RD	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$ 201,149.20	TRAFFIC SIGNAL	207/720	TARRANT IH 30 & CENTER ST.	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 385,700.00	TRAFFIC SIGNAL	2007/721	TARRANT SH 199	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 4,234,419.95	TRAFFIC SIGNAL	2007/723	DALLAS VARIOUS LOCATIONS DART- CMGC-3 LINE NW-2, NW-3, NW-4	ARCHER WESTERN 2121 AVENUE J, #103 ARLINGTON, TEXAS 76006
\$ 299,800.00	TRAFFIC SIGNAL	2007/725	DALLAS NAAMAN SCHOOL RD	TRI-CON SERVICES, INC. 3010 W. MAIN ST. ROWLETT, TEXAS 75088
\$ 397,350.00	TRAFFIC SIGNAL	2007/729	WEATHERFORD MAIN ST. - DOWNTOWN	ED A. WILSON PO BOX 11423 FT. WORTH, TEXAS 76110-0423
\$ 103,600.00	TRAFFIC SIGNAL	2007/732	PLANO - VARIOUS LOC	JIM BOWMAN CONSTRUCTION 1111 SUMMIT AVE, #1 PLANO, TEXAS 75074
\$ 117,300.00	TRAFFIC SIGNAL IMPRVTS	2007/735	HOLLAND RD & BROAD STREET	L H LACY CONSTRUCTION PO BOX 541297 DALLAS, TEXAS

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

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## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2007		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 136,715.00	TRAFFIC SIGNAL MODIFY	2007/737	LUNA RD & VALLEY VIEW (RACETRAC)	JFG CONCRETE, INC. PO BOX 550 PRINCETON, TEXAS 75407
S 164,000.00	TRAFFIC SIGNAL	2007/739	SH 170 & PARK VISTA	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
S 123,300.00	TRAFFIC SIGNAL	2007/743	AMARILLO BLVD & LOWES LANE	BRAD DRAKE CONSTRUCTION 3737 LAMAR AVE, #700 PARIS, TEXAS 75462
S 666,720.00	TRAFFIC SIGNAL	2007/744	MOCKINGBIRD LANE	GIBSON & ASSOCIATES, INC. PO BOX 800579 BALCH SPRINGS, TEXAS 75180
S 101,000.00	TRAFFIC SIGNAL	2007/745	BU 287P & FM 157	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
S 117,453.00	STREET LIGHTS/ TRAFFIC SIGNALS	2007/746	TCCD SOUTH CAMPUS CAMPUS & JOE B RUSHING	ROEBUCK CONCRETE CONTRACTORS PO BOX 301 FT. WORTH, TEXAS 76101
S 462,568.80	TRAFFIC ISIGNALS	2007/751	FM 2499	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 2,835,000.00	TRAFFIC SIGNALS	2007/755	US 80	TXDOT - TYLER 15986 SH 155 TYLER, TEXAS 75703
S 254,500.00	RECONSTRUCT TRAFFIC SIGNALS	2007/757	VARIOUS LOCATIONS	CITY OF WACO PO BOX 2570 WACO, TEXAS 76072
S 334,800.00	TRAFFIC SIGNALS	2007/761	EXCHANGE PKWY TWIN CREEKS & SH 121	LACY CONSTRUCTION PO BOX 541297 DALLAS, TEXAS 75354
S 369,165.00	TRAFFIC SIGNAL IMPROVEMENTS	2007/762	SHADY OAKS & BRINKER	LACY CONSTRUCTION PO BOX 541297 DALLAS, TEXAS 75354
S 923,807.02	TRAFFIC SIGNAL INSTALL	2007/763	IH 30	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161

## EXHIBIT 1

**DURABLE SPECIALTIES, INC.**

Exhibit "F"

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**DURABLE SPECIALTIES, INC. WORK EXPERIENCE**

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2008		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 644,378.30	TRAFFIC SIGNAL IMPROVEMENTS CITY OF FRISCO	2008/801	PANTHER CREEK PKWY AND LEGACY DR.	MARIO SINACOLA & SONS PO BOX 2329 FRISCO, TEXAS 75034
\$ 103,400.00	TRAFFIC SIGNAL TXDOT KAUFMAN COUNTY	2008/805	SH 198	TEXAS STERLING 2100 N. HWY 360, #106A GRAND PRAIRIE, TEXAS 75050
\$ 130,375.00	TRAFFIC SIGNAL CITY OF ARLINGTON	2008/806	ROUTH CREEK PKWY	L. H. LACY PO BOX 541297 DALLAS, TEXS 75354
\$ 142,000.00	TRAFFIC SIGNAL NTTA	2008/807	BRIARGROVE TO RAILROAD NORTH TO PGBT	REBCON 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 559,000.00	TRAFFIC SIGNAL	2008/808	VARIOUS LOCATIONS	CITY OF GRAND PRAIRIE 206 W. CHURCH ST. GRAN PRAIRIE, TEXAS 75050
\$ 454,250.00	TRAFFIC SIGNAL CITY OF ARLINGTON	2008/809	PLEASANT RIDGE RD.	L. H. LACY PO BOX 541297 DALLAS, TEXS 75354
\$ 111,000.00	TRAFFIC SIGNAL	2008/811	WINSCOTT RD. & OLD BENBROOK RD/BECKMAN DRIVE	CITY OF BENBROOK 911 WINSCOTT RD. BENBROOK, TEXAS 76126
\$ 413,022.00	TRAFFIC SIGNAL CITY OF RICHARDSON	2008/812	BELTLINE RD, ARAPAHO RD, CAMPBELL RD & COIT RD	REBCON 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 379,290.00	TRAFFIC SIGNAL TXDOT TARRANT	2008/819	SH 360 @ SH 180(DIVISION STREET)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 420,483.00	TRAFFIC SIGNAL TXDOT COLLIN	2008/821	FM 2934 (ELDORADO PKWY)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 651,165.00	TRAFFIC SIGNAL TXDOT DALLAS	2008/825	IH 30	TEXAS STERLING 2100 N. HWY 360, #106A GRAND PRAIRIE, TEXAS 75050
\$ 124,500.00	TRAFFIC SIGNAL TXDOT TARRANT	2008/826	SH 183	APAC-TEXAS, INC. PO BOX 1807 FT. WORTH, TEXAS 76101
\$ 899,397.00	TRAFFIC SIGNAL TXDOT DENTON	2008/827	FM 1171	GLENN THURMAN PO BOX 850842 MESQUITE, TEXAS 75185-0842
\$ 472,400.00	TRAFFIC SIGNAL CITY OF ARLINGTON	2008/828	STADIUM DR. - DIVISION STREET TO RANDOL MILL ROAD	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119
\$ 365,037.50	TRAFFIC SIGNAL CITY OF GRAND PRAIRIE	2008/829	MAYFIELD DR.	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119

**EXHIBIT 1**  
**DURABLE SPECIALTIES, INC.**

Exhibit "F"

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**DURABLE SPECIALTIES, INC. WORK EXPERIENCE**

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2008		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 1,145,000.00	NON-SITE TXDOT DALLAS	2008/830	VARIOUS LOCATIONS	TXDOT - DALLAS PO BOX 133067 DALLAS, TEXAS 75313
S 656,000.00	TRAFFIC SIGNAL	2008/831	BARNETT RD & JOHNSON ROAD	TXDOT - WICHITA 1601 SOUTHWEST PKWY WICHITA FALLS, TEXAS 76302
S 328,000.00	TRAFFIC SIGNAL	2008/832	VARIOUS LOCATIONS	TXDOT - DALLAS PO BOX 133067 DALLAS, TEXAS 75313
S 125,600.00	TRAFFIC SIGNAL CITY OF DENTON	2008/835	TEASLEY LN & HICKORY CREEK	C D HENDERSON 1985 FOREST LANE GARLAND, TEXAS 75042
S 398,600.00	TRAFFIC SIGNAL TXDOT DALLAS	2008/837	MOUNTAIN CREEK PKWY	TEXAS STERLING 2100 N. HWY 360, #106A GRAND PRAIRIE, TEXAS 75050
S 168,500.00	VIDEO DETECTION	2008/838	VARIOUS LOCATIONS	CITY OF HALTOM CITY 4200 HOLLIS ST. HALTOM CITY, TEXAS 76111
S 471,009.00	TRAFFIC SIGNAL	2008/845	GEORGE BUSH TURNPIKE	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 167,192.13	TRAFFIC SIGNAL TXDOT DALLAS	2008/845	US 75 UNDERPASS @ PARKER RD	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 98,800.00	TRAFFIC SIGNAL CITY OF LEWISVILLE	2008/849	DENTON TAP RD @ HIGHLAND DR.	UNITED COMMERCIAL DEVELOPMENT 7001 PRESTON RD., #500 DALLAS, TEXAS 75205
S 148,700.00	TRAFFIC SIGNAL	2008/850	IH 20 (FM 3325/FM 1187)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 124,300.00	TRAFFIC SIGNAL	2008/852	BELKNAP ST & GROVE ST. GROVE ST. & WEATHERFORD ST.	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
S 383,500.00	TRAFFIC SIGNAL	2008/856	FM 544 - WOODBRIDGE CROSSING IMPRVMT	L. H. LACY PO BOX 541297 DALLAS, TEXAS 75354
S 1,117,000.00	TRAFFIC SIGNAL	2008/857	IH 35E	TXDOT - DALLAS PO BOX 133067 DALLAS, TEXAS 75313
S 302,000.00	TRAFFIC SIGNAL	2008/858	SH 121 - NTTA	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161

## EXHIBIT 1

**DURABLE SPECIALTIES, INC.**

Exhibit "F"

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**DURABLE SPECIALTIES, INC. WORK EXPERIENCE**

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2009		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 129,849.00	SIGNAL MODIFICATION CITY OF FORT WORTH	2009/901	W. 7TH & CURRIE ST.	CONATSER CONSTRUCTION 5327 WICHITA ST. FT. WORTH, TEXAS 76102
\$ 260,077.00	TRAFFIC SIGNAL TXDOT TARRANT COUNTY	2009/902	IH 20 (GREAT SOUTHWEST PARKWAY)	MCMAHON CONTRACTING PO BOX 153086 IRVING, TEXAS 75015-3086
\$ 302,700.00	TRAFFIC SIGNAL IMPROVEMENTS	2009/904	VARIOUS LOCATIONS	CITY OF NORTH RICHLAND HILSS 7200 A DICK FISHER DR. S NORTH RICHLAND HILLS, TEXAS 76182-0609
\$ 1,098,700.00	TRAFFIC SIGNAL TXDOT DALLAS	2009/906	LOOP 12	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 367,900.00	TRAFFIC SIGNAL SYSTEM IMPROVEMENTS	2009/910	VARIOUS LOCATIONS	TOWN OF ADDISON PO BOX 9010 ADDISON, TEXAS 75001-9010
\$ 149,000.00	TRAFFIC SIGNAL TXDOT PARKER COUNTY	2009/911	SH 171	PRATER EQUIPMENT CO., INC PO BOX 746 COMANCHE, TEXAS 76442
\$ 585,148.00	VITRUVIAN PARK PUBLIC INFRASTRUCTURE PHASE 1B TOWN OF ADDISON	2009/914	VITRUVIAN PARK	NORTH TEXAS CONTRACTING PO BOX 468 KELLER, TEXAS 76244
\$ 471,658.40	INSTALL 4 NEW TRAFFIC SIGNALS	2009/915	VARIOUS LOCATIONS	CITY OF ALLEN 305 CENTURY PARKWAY ALLEN, TEXAS 75013-8042
\$ 122,660.00	STREETSCAPE IMPROVEMENTS CITY OF DALLAS	2009/916	ELM ST - FROM AKARD TO ERVA	TEXAS STANDARD CONSTRUCTION PO BOX 210768 DALLAS, TEXAS 75211
\$ 315,517.00	0213-PGB-06-CN-EN SECTION XXXI NTTA	2009/918	SOUTH OF MAIN ST. TO NORTH OF SHOR OF LAKE RAY HUBBARD	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 482,330.00	TRAFFIC SIGNAL DALLAS COUNTY	2009/919	BELTLINE RD TO WHEATLAND RD..	CASH CONSTRUCTION CO., INC. PO BOX 1279 FLUGERVILLE, TEXAS 78691
\$ 122,820.00	TRAFFIC SIGNAL	2009/920	DEBBIE LANE @ BEN BARBER ACADEMY	CITY OF MANSFIELD 1200 E. BROAD ST. MANSFIELD, TEXAS 76063
\$ 121,120.00	INTERSECTION IMPROVEMENTS	2009/921	SARA JANE @ GREAT SOUTHWEST PARKWAY	MCMAHON CONTRACTING PO BOX 153086 IRVING, TEXAS 75015-3086
\$ 149,505.00	TRAFFIC SIGNAL TXDOT DALLAS	2009/922	FM 1382	REBCON, INC. 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 150,700.00	TRAFFIC SIGNAL CITY OF HURST	2009/924	W. PIPELINE RD @ FUTURE RD	AUI CONTRACTORS 4775 N. FREEWAY FT. WORTH, TEXAS 76106
\$ 1,016,435.20	REVERSIBLE LANE SYS	2009/927	ROAD TO SIX FLAGS, COLLINS & DIVISON ST.	CITY OF ARLINGTON 1011 W. MAIN ST. ARLINGTON, TEXAS 76013

# EXHIBIT 1

## DURABLE SPECIALTIES, INC.

Exhibit "F"

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### DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2009		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 169,819.45	INTERSECTION IMPRVTS PHASE 1B	2009/929	TOWN EAT BLVD & NORTH GALLOWAY AVE	JIM BOWMAN CONSTRUCITON 1111 SUMMIT AVE, #1 PLANO, TEXAS 75074
S 233,000.00	TRAFFIC SIGNAL INSTALL	2009/930	FM 1378 & COUNTRY CLUB DRIVE	L. H. LACY COMPANY, LTD. PO BOX 541297 DALLAS, TEXAS 75354-1297
S 590,113.80	TRAFFIC SIGNAL INSTALL AT 4 LOCATIONS	2009/931	RIDGEVIEW DR. & ALMA EXCHANGE PKWY & RIDGEVIEW DR. RIDGEVIEW DR. & WALNUT SPRINGS DR. EXCHANGE PKWY & TWIN CREEKS DR.	CITY OF ALLEN 305 CENTURY PARKWAY ALLEN, TEXAS 75013
S 128,807.50	TRAFFIC SIGNAL INSTALL	2009/937	SH 289 & LEGACY DR.	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 241,150.00	RED OAK RD STREET & UTILITY IMPROVEMENTS	2009/940	RED OAK RD & VARIOUS LOCATIONS	XIT PAVING & CONSTRUCTION 3934 S. HWY 287 WAXAHACHIE, TEXAS 75165
S 469,000.00	TRAFFIC SIGNAL INSTALLTATION	2009/944	VARIOUS LOCATIONS	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
S 102,000.00	TRAFFIC SIGNAL INSTALLATION	2009/946	US 180 & TOWN CREEK & UPPR (WB & EB)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161

## EXHIBIT 1

**DURABLE SPECIALTIES, INC.**

Exhibit "F"

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## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2010		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$445,380.00	TRAFFIC SIGNAL INSTALL	2010/001	VARIOUS LOCATIONS	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
\$630,000.00	TRAFFIC SIGNAL INSTALL	2010/002	VARIOUS LOCATIONS IN GEORGETOWN	TXDOT - AUSTIN PO BOX 15426 AUSTIN, TEXAS 78761-5426
\$53,000.00	ANNUAL LOOP INSTALL	2010/003	VARIOUS LOCATIONS	CITY OF GARLAND 409 FOREST GATE GARLAND, TEXAS 75041
\$135,000.00	TRAFFIC SIGNAL INSTALL	2010/004	PLEASANT RUN RD	L. H. LACY COMPANY PO BOX 541297 DALLAS, TEXAS 75354-1297
\$73,000.00	TRAFFIC SIGNAL INSTALL	2010/005	ALSBURY BLVD & SUMMERCREST BLVD	CITY OF BURLESON 141 W. RENFRO ST. BURLESON, TEXAS 76028
\$82,000.00	TRAFFIC SIGNAL INSTALL	2010/006	BARR RD.	MCCLENDON CONSTRUCTION PO BOX 999 BURLESON, TEXAS 76097
\$105,960.00	TRAFFIC SIGNAL INSTALL	2010/007	FM 407 & CHIN CHAPEL	TISEO PAVING PO BOX 270040 DALLAS, TEXAS 75227-0040
\$219,375.00	TRAFFIC SIGNAL INSTALL	2010/008	OLD DECATUR TO BUSINESS 287	AUI CONTRACTORS, INC. 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$90,101.95	TRAFFIC SIGNAL INSTALL	2010/011	CEDAR SPRINGS - DALLAS LOVE FIELD	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$115,500.00	TRAFFIC SIGNAL INSTALL	2010/012	N. COUNTRY CLUB RD. & W. BROWN ST.	GLENN THURMAN PO BOX 850842 MESQUITE, TEXAS 75185-0842
\$132,000.00	TRAFFIC SIGNAL INSTALL	2010/013	US 380	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$192,000.00	TRAFFIC SIGNAL INSTALL	2010/014	VARIOUS LOCATIONS	CITY OF WACO PO BOX 2570 WACO, TEXAS 76702-2570
\$315,165.00	PAVING & DRAINING IMPROVEMENTS	2010/017	DIRKS RD - FROM BRYANT IRVIN RD TO HARRIS PKWY	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119
\$151,245.00	WAL-MART TRAF SIG IMPROVEMENTS	2010/018	EXCHANGE PKWY & WALMART DR	EMJ CORPORATION 5525 N. MACARTHUR BLVD, #400 IRVING, TEXAS 75038
\$828,000.00	TRAF SIGNAL INSTALL	2010/021	IH 30 & FERGUSON RD.	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$105,500.00	TRAF SIGNAL INSTALL	2010/023	CS (MONTFORT DR.)	MCMAHON CONTRACTING PO BOX 153086 IRVING, TEXAS 75015-3086

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

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### DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2010		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$938,300.00	PREVENTATIVE MAINTENANCE	2010/024	IH 35-E @ VARIOUS LOCATIONS	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$233,500.75	TRAFFIC SIGNAL INSTALL	2010/028	GRENNVILLE AVE & HIGH POINT TRAIL RD AND MCDERMOTT DR & SHALLOWATER DR	CITY OF ALLEN 305 CENTURY PKWY ALLEN, TEXAS 75013
\$760,234.00	TRAFFIC SIGNAL INSTALL	2010/30	FM 720 (ELDORADO PKWY)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$1,358,000.00	2010 GRAND TASK ORDER CONSTRUCTION SVCS	2010/031	VARIOUS LOCATIONS	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
\$147,760.00	VIDEO IMAGE DETECTION	2010/032	FM 1171 @ VAR LOCATIONS	CITY OF LEWISVILLE PO BOX 299002 LEWISVILLE, TEXAS 75029-9002
\$198,400.00	VIVDS AT TEN LOCATIONS	2010/033	VARIOUS LOCATIONS	CITY OF LEWISVILLE PO BOX 299002 LEWISVILLE, TEXAS 75029-9002
\$354,000.00	TRAFFIC SIGNAL INSTALL	2010/039	SPRING VALLEY WIDENING	NORTH TEXAS CONTRACTING PO BOX 468 KELLER, TEXAS 76244
\$116,400.00	TRAFFIC SIGNAL INSTALL	2010/040	IH 35 AT HERTIAGE TRACE PKWY	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$1,255,000.00	NON-SITE SPECIFIC	2010/041	VARIOUS LOCATIONS	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$137,000.00	INSTALLATION OF STREETLIGHTING	2010/042	GREENVILLE FROM EXCHANGE PKW TO STACY ROAD	CITY OF ALLEN 305 CENTURY PKWY ALLEN, TEXAS 75013
\$365,735.00	TRAFFIC SIGNAL INSTALL	2010/045	ARKANSAS LANE REBUILD	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119
\$415,900.00	CITY WIDE TRAFFIC SIGNAL IMPRVTS	2010/047	VARIOUS LOCATIONS	CITY OF BEDFORD 1813 RELIANCE PKWY BEDFORD, TEXAS 76021
\$105,000.00	TRAFFIC SIGNAL INSTALL	2010/048	CLAY RD	TOWN OF SUNNYVALE 127 COLLINS RD SUNNYVALE, TEXAS 75182
\$120,425.00	TRAFFIC SIGNAL INSTALL	2010/049	WEBB CHAPEL @ WALMART DRIVEWAY	EMJ CORPORATION 5525 N. MACARTHUR BLVD, #400 IRVING, TEXAS 75038
\$278,900.00	TRAFFIC SIGNAL INSTALL	2010/050	N. MAIN ST - PHASE 1	XIT PAVING & CONSTRUCTION 3934 S. HWY 287 WAXAHACHIE, TEXAS 75165

## EXHIBIT 1

**DURABLE SPECIALTIES, INC.**

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2011		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$408,849.00	TRAFFIC SIGNAL INSTALL	2011/101	RUFF SNOW DR. AT VARIOUS LOCATIONS	AUI CONTRACTORS, INC. 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$177,000.00	TRAFFIC SIGNAL INSTALL	2011/103	FM 741	ED BELL CONSTRUCTION PO BOX 540787 DALLAS, TEXAS 75354-0787
\$213,252.00	TRAFFIC SIGNAL INSTALL	2011/106	INWOOD IMPROVEMENTS	LEMCO CONSTRUCTION SERVICES 14131 MIDWAY RD, #600 ADDISON, TEXAS 75001
\$140,940.00	TRAFFIC SIGNAL INSTALL	2011/113	FM 1187	LONE STAR CONSTRUCTION 4320 WINDSOR CENTRE TRAIL, #500 FLOWER MOUND, TEXAS 75028
\$762,790.00	TRAFFIC SIGNAL INSTALL	2011/114	SOUTHEAST PKWY TO WEBB FERRELL	L H LACY COMPANY PO BOX 541297 DALLAS, TEXAS 75354-1297
\$405,000.00	TRAFFIC SIGNAL INSTALL	2011/115	FM 51	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$354,000.00	TRAFFIC SIGNAL INSTALL	2011/117	SH 34	AUI CONTRACTORS, INC. 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$201,700.00	TRAFFIC SIGNAL INSTALL	2011/120	VITRUVIAN WAY AT BELLA WAY	CPS CIVIL 1215 CREST LANE DR. DUNCANVILLE, TEXAS 75137
\$129,472.92	TRAFFIC SIGNAL INSTALL	2011/121	SH 183 / SH 121 INTERCHANGE	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$1,300,000.00	ADVANCED TRANSPORTATION MANAGEMENT SERVICES	2011/123	VARIOUS LOCATIONS	DFW AIRPORT 3003 S. SERVICE RD. DFW AIRPORT, TEXAS 75261
\$285,000.00	TRAFFIC SIGNAL INSTALL	2011/125	MEMORIAL DR & STANDRIDGE	CITY OF THE COLONY C/O HDR ENGINEERING, INC. 17111 PRESTON RD., #200 DALLAS, TEXAS 75248-1232
\$112,000.00	TRAFFIC SIGNAL INSTALL	2011/126	SH 199	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$182,000.00	TRAFFIC SIGNAL INSTALL	2011/127	BU 190F @ FM 3219	TXDOT - WACO 100 S. LOOP DR. WACO, TEXAS 76704-2858
\$226,000.00	SIGNAL & INTERSECTION IMPROVEMENTS	2011/128	CANNON @ BROAD & CANNON @ MATLOCK	MCCLENDON CONSTRUCTION, INC. PO BOX 996 BURLESON, TEXAS 76097
\$104,500.00	TRAFFIC SIGNAL IMPROVEMENTS	2011/129	ELDORADO @ HILLCREST & ELDORADO @ COIT RD	CITY OF FRISCO 6101 FRISCO SQUARE BLVD, 3RD FLOOR FRISCO, TEXAS 75034

# EXHIBIT 1 DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2011		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$483,350.00	IH 635 MANAGED LANES	2011/130	VARIOUS LOCATIONS	TRINITY INFRASTRUCTURE, LLC 5520 I-635 EAST, #150 DALLAS, TEXAS 75240
\$140,000.00	TRAFFIC SIGNAL INSTALL	2011/131	FM 51	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$222,000.00	TRAFFIC SIGNAL IMPROVEMENTS	2011/136	GASTON AVE & WASHINGTON AVE	CPS CIVIL 1215 CREST LANE DR. DUNCANVILLE, TEXAS 75137
\$150,900.00	RICHLAND HILLS TRE STATION ACCESS ENHANCEMENT	2011/137	HANDLEY-EDERVILLE @ BURNS RD/TRINITY BLVD	NORTH STAR CONSTRUCTION, INC. 3210 JOYCE DR. FT. WORTH, TEXAS
\$142,000.00	ST. LIGHT IMPROVEMENTS	2011/140	GIFFORD ST. & BAGDAD RD.	HAYDEN BUILDING CORPORATION 4640 E. COTTON GIN LOOP PHOENIX, AZ 85040
\$143,144.00	TRAF SIG INSTALL & LEFT TURN LAN IMPRVTS	2011/144	UPTOWN BLVD & S. WALMART & FM 1382	CITY OF CEDAR HILL PO BOX 96 CEDAR HILL, TEXAS 75106
\$301,300.00	LAKE RIDGE PKWY WIDENING	2011/146	LAKE RIDGE PKWY @ VARIOUS LOCATIONS	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015-3086
\$539,530.00	TRAFFIC SIGNAL INSTALL	2011/147	SH 171 - FM 1884 TO IH 20	JAY MILLS CONTRACTING, INC. PO BOX 1669 STEPHENVILLE, TEXAS 76401
\$104,000.00	9500476; DFW AIRPORT CROSS UNDER #1	2011/148	NORTH SERVICE RD @ CROSS UNDER #1	NORTH TEXAS CONTRACTING, INC. PO BOX 468 KELLER, TEXAS 76244
\$428,000.00	TRAFFIC SIGNAL INSTALL AT 4 LOCATIONS	2011/150	VARIOUS LOCATIONS	CITY OF GRAND PRAIRIE PO BOX 534045 GRAND PRAIRIE, TEXAS 75053-4045
\$129,177.00	COOKS CHILDREN'S MEDICAL CENTER	2011/151	6 TH & 7TH STREET @ PENNSYLVANIA AVE	CONATSER CONSTRUCTION TX., L.P. PO BOX 15448 FT. WORTH, TEXAS 76119
\$138,596.25	INTERSECTION IMPRVTS	2011/154	MATLOCK ROAD	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015
\$330,000.00	TRAFFIC SIGNAL INSTALL	2011/155	FM 407	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$178,000.00	TRAFFIC SIGNAL INSTALL	2011/156	NORTH BEACH ST.	CONATSER CONSTRUCTION TX., L.P. PO BOX 15448 FT. WORTH, TEXAS 76119

## EXHIBIT 1

**DURABLE SPECIALTIES, INC.**

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2012		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 197,000.00	TRAFFIC SIGNAL INSTALL	2012 / 203	WEST BERRY STREET	MCCLENDON CONSTRUCTION PO BOX 996 BURLESON, TEXAS 76097
S 98,000.00	INTERSECTION IMPROVEMENTS	2012 / 205	PARKER RD, SPRING VALLEY PKWY & JUPITER RD	JIM BOWMAN CONSTRUCTION 2716 S. RIGSBEE DRIVE PLANO, TEXAS 75074
S 194,204.00	WEST BROWN STREET IMPROVEMENTS	2012 / 207	COUNTRY CLUB RD TO NORTH BALLARD AVE	MCMAHON CONTRACTING, LP PO BOX 153086 IRVING, TEXAS 75015
S 104,500.00	TRAFFIC SIGNAL INSTALL	2012 / 208	MILITARY PARKWAY AT CEDAR LAKE DRIVE	LEMCO CONSTRUCTION SERVICES 14131 MIDWAY ROAD ADDISON, TEXAS 75001
S 173,000.00	PRESTON ROAD ADA IMPROVEMENTS	2012 / 210	GAYLORD PKWY, WARREN PKWY, LEBANON RD WADE BLVD	CITY OF FRISCO 6101 FRISCO SQUARE BLVD FRISCO, TEXAS 75034
S 349,600.00	PLEASANT RUN RD RECONSTRUCTION PH 4B (PW06-0039)	2012 / 212	PLEASANT RUN RD	L.H. LACY COMPANY, LTD. 1880 CROWN ROAD DALLAS, TEXAS 75234
S 162,447.95	BLUE LINE EXPANSION	2012 / 213	SH 66 @ MARTIN	AUSTIN BRIDGE & ROAD 4817 ROWLETT ROAD ROWLETT, TEXAS 75088
S 150,000.00	ROADWAY ILLUMINATION	2012 / 214	NORTH BEACH ST. KELLERY HICKS TO TIMBERLAND BLVD	JLB CONTRACTING, LP PO BOX 24131 FT. WORTH, TEXAS 76124
S 180,000.00	TRAFFIC SIGNAL INSTALL	2012 / 217	W. WINDSOR DRIVE	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015
S 120,000.00	TRAFFIC SIGNAL INSTALL	2012 / 218	BU 377H @ RESORT CONFERENCE CENTER	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
S 140,000.00	ILLUMINATION & TRAFFIC SIGNAL INSTALL	2012 / 221	JOHN HICKMAN PARKWAY FROM WEST OF PRESTON ROAD TO OHIO DRIVE	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015
S 215,000.00	TRAFFIC SIGNAL INSTALL	2012 / 222	DFW AIRPORT CROSSUNDER #2	PHILLIPS MAY CORPORATION 4861 SHARP STREET DALLAS, TEXAS 75247
S 202,000.00	TRAFFIC SIGNAL INSTALL	2012 / 224	SACHSE ROAD AT MILES/ BRYAN STREET	CITY OF SACHSE 3815-B SACHSE ROAD SACHSE, TEXAS 75048
S 108,000.00	TRAFFIC SIGNAL INSTALL	2012 / 225	US 67 (CR 209 E. OF ALVARADO)	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
S 97,700.00	TEMP & PERM TRAFFIC SIGNAL INSTALL	2012 / 228	DART ORANGE LINE I-3 FREEPORT PARKWAY @ AIRFIELD DRIVE	MASS ELECTRIC CONSTRUCTION COMPANY 8700 FREEPORT PARKWAY, #160 IRVING, TEXAS 75063

**EXHIBIT 1**  
**DURABLE SPECIALTIES, INC.**

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2012		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 129,849.75	SAW CUT LOOPS	2012 / 229	SH 180	APAC-TEXAS, INC 2121 IRVING BLVD DALLAS, TEXAS 75207
S 437,000.00	TEMP & PERM TRAFFIC SIGNAL INSTALL	2012 / 231	SH 26	AUI CONTRACTORS, LP 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
S 147,074.00	TRAFFIC SIGNAL INSTALL	2012 / 233	US 180	ED BELL CONSTRUCTION 10605 HARRY HINES BLVD DALLAS, TEXAS 75220-2634
S 156,000.00	TRAFFIC SIGNAL INSTALL	2012 / 236	N. TARRANT PKWY @ KELLER SMITH	L H LACY COMPANY, LTD. PO BOX 541297 DALLAS, TEXAS 75354-1297
S 456,000.00	TEMP & PERM TRAFFIC SIGNAL INSTALL	2012 / 237	FM 1187	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015

## EXHIBIT 1

**DURABLE SPECIALTIES, INC.**

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2013		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 1,679,500.00	TRAFFIC SIGNAL & ILLUMINATION MODIFICATION	2013 / 301	US 287 TO MILLER AVENUE	JACKSON CONSTRUCTION, LTD. 5112 SUN VALLEY DRIVE FT. WORTH, TEXAS 76119
S 129,000.00	TRAFFIC SIGNAL INSTALL	2013 / 302	FM 1187	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
S 363,000.00	PERM & TEMP TRAFFIC SIGNAL INSTALL	2013 / 304	INDEPENDENCE & CUSTER	TISEO PAVING COMPANY PO BOX 270040 DALLAS, TEXAS 75227
S 99,628.00	TRAFFIC SIGNAL MODIFY	2013 / 305	FM 156 @ BASSWOOD BLVD	D R HORTON , INC 6751 NORTH FREEWAY FT. WORTH, TEXAS 76131
S 417,155.00	LIGHTING PHASE II & PARKING LOT LIGHTS	2013 / 306	MAIN ST @ LAKESHORE DR. AND BEARD PARK	XIT PAVING & CONSTRUCTION, INC. 3934 S. HIGHWAY 287 WAXAHACHIE, TEXAS 75165
S 105,000.00	TRAFFIC SIGNAL INSTALL	2013 / 308	US 377	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
S 105,000.00	TRAFFIC SIGNAL INSTALL	2013 / 310	ELDORADO PARKWAY (FM 2934) AT WAL-MART	CITY OF FRISCO 6101 FRISCO SQUARE BLVD 3RD FLOOR EAST FRISCO, TEXAS 75034
S 447,000.00	PERM & TEMP TRAFFIC SIGNAL INSTALL	2013 / 312	IH 35W	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 152,875.00	TRAFFIC SIGNAL INSTALL BNSF TOWERS 55	2013 / 317	HAMPTON ST: BELKNAP ST & WEATHERFORD ST	AUI CONTRACTORS, LP 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
S 111,000.00	TRAFFIC SIGNAL INSTALL	2013 / 319	TURTLE CREEK / CEDAR SPRINGS AT TURTLE CREEK BLVD.	AUI CONTRACTORS, LP 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
S 815,000.00	NON-SITE SPECIFIC	2013 / 320	VARIOUS LOCATIONS	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
S 91,300.00	MAINTENANCE	2013 / 321	US 287	TXDOT - WF 1601 SOUTHWEST PKWY WICHITA FALLS, TEXAS 76302-4906
S 170,000.00	SOLAR PWRD CROSSWALK SYSTEM & SOLAR PWRD DRIVER SPEED ASSY	2013 / 323	VARIOUS LOCATIONS	KEN-DO CONTRACTING, LP PO BOX 2001 DESOTO, TEXAS 75123
S 135,650.00	TRAFFIC SIGNAL INSTALL	2013 / 324	FM 548 @ KROGER DRIVE	HAWKINS CONSTRUCTION, INC. PO BOX 1636 TARPON SPRING, FL 34688-1636
S 280,964.00	PERM & TEMP TRAFFIC SIGNAL INSTALL	2013 / 327	FM 663	ED BELL CONSTRUCTION COMPANY PO BOX 540787 DALLAS, TEXAS 75354-0787
S 182,000.00	TRAFFIC SIGNAL IMPROVEMENTS	2013 / 329	FM 2499 @ LIVE OAK	CITY OF HIGHLAND VILLAGE 1000 HIGHLAND VILLAGE RD HIGHLAND VILLAGE, TEXAS 75077

EXHIBIT 1  
**DURABLE SPECIALTIES, INC.**

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2013		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 1,598,000.00	NON-SITE SPECIFIC	2013 / 330	VARIOUS LOCATIONS	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313-3067
S 390,662.00	TRAFFIC SIGNAL INSTALL	2013 / 331	KENTUCKY STREET AT VARIOUS LOCATIONS	NORTH TEXAS CONTRACTING PO BOX 468 KELLER, TEXAS 76244
S 222,101.00	STREET LIGHTING & SCHOOL ZONE FLASHER	2013 / 335	EAST BROAD STREET	XIT PAVING & CONSTRUCTION, INC. 3934 S. HIGHWAY 287 WAXAHACHIE, TEXAS 75165
S 109,100.00	TRAFFIC SIGNAL INSTALL	2013 / 336	SH 289	REBCON, INC. 1866 W. NORTHWEST HWY DALLAS, TEXAS 75220
S 120,000.00	TRAFFIC SIGNAL INSTALL	2013 / 337	FM 3029	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
S 136,900.00	TRAFFIC SIGNAL INSTALL	2013 / 338	INDEPENDENCE PKWY AT KELMSCOT DRIVE	CITY OF FRISCO 6101 FRISCO SQUARE BLVD 3RD FLOOR EAST FRISCO, TEXAS 75034
S 102,650.00	2011 INTERSECTION CAPACITY IMPROVEMENT	2013 / 340	VARIOUS LOCATIONS	MCCLENDON CONSTRUCTION PO BOX 999 BURLESON, TEXAS 76097

EXHIBIT 1

THE AMERICAN INSTITUTE OF ARCHITECTS <sup>Exhibit "F"</sup>

AIA Document A310  
Bid Bond

KNOW ALL MEN BY THESE PRESENTS, THAT WE Durable Specialties, Inc.  
P.O. Box 535969 Grand Prairie TX 75050

as Principal, hereinafter called the Principal, and Great American Insurance Company  
301 East Fourth Street Cincinnati OH 45202

a corporation duly organized under the laws of the State of OH  
as Surety, hereinafter called the Surety, are held and firmly bound unto City of Denton, TX  
TX

as Obligee, hereinafter called the Obligee, in the sum of Five Percent of the Greatest Amount Bid  
Dollars (\$ 5% GAB ),

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for RFP 5442/ Intersection Traffic Control Construction

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and materials furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 6th day of February, 2014

K Fox  
(Witness)

Durable Specialties, Inc.  
(Principal) (Seal)  
By: [Signature] v.p.  
(Title)

[Signature]  
(Witness)



Great American Insurance Company  
(Surety) (Seal)  
[Signature]  
Attorney-in-Fact Jack M. Crowley (Title)

EXHIBIT 1

Exhibit "F"

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than FOUR

No. 019950

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
JACK M. CROWLEY	ALL OF	ALL
STEVEN R. FOSTER	ADDISON,	\$75,000,000.00
PATRICIA A. SMITH	TEXAS	
MARIE PERRYMAN		

This Power of Attorney revokes all previous powers issued in behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 21<sup>st</sup> day of, JULY, 2011.

Attest

GREAT AMERICAN INSURANCE COMPANY



*[Handwritten signature]*

*[Handwritten signature]*

DAVID C. KITCHIN (513-412-4602)

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this 21<sup>st</sup> day of JULY, 2011, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



KAREN L. GROSHEIM  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES 02-20-16

*[Handwritten signature: Karen L. Grosheim]*

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this 6th day of February, 2014



*[Handwritten signature]*

**EXHIBIT 1**

**Exhibit "F"**



**Purchasing Department  
901-B Texas St.  
Denton, TX 76209  
(940) 349-7100  
[www.dentonpurchasing.com](http://www.dentonpurchasing.com)**

**ADDENDUM # 1**

**RFP # 5442**

**For  
Construction of Traffic Control  
Intersections for the City of Denton**

**Issue Date: January 31, 2014  
Response due Date and Time (Central Time):  
Thursday, February 6, 2014, 2:00 p.m.**

**EXHIBIT 1**

**Exhibit "F"**

RFP # 5442

**ADDENDUM # 1**

**Addendum # 1 to be returned with Proposal**

The following are changes to the specifications:

NO OTHER CHANGES AT THIS TIME.

*This form should be signed and returned with your proposal.*

Name: Patrick C. Bryan

Signature: 

Company: Durable Specialties, Inc

Title: Vice - President

Date: 2-6-14

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

**ATTACHMENT C  
BUSINESS OVERVIEW QUESTIONNAIRE**

1. Contractor Name : Durable Specialties, Inc.
2. Address (Principle Place of Business: 2302 Paddock Way Dr., Grand Prairie, TX 75050
3. Does your company have an established physical presence in the State of Texas, or the City of Denton? Yes, in the State of Texas
4. Tax Payer ID#: 75-1963459
5. Email Address of Primary contact: Patrick@durablespecialties.com
6. Website Address: N/A
7. Telephone: 972-296-6324
8. Fax: 972-780-7411
9. Other Locations: N/A
10. Organization Class:  
Corporation
11. Date Established: June 15, 1984
12. Former Business Name: N/A
13. Date of Dissolution: N/A
14. Subsidiary of : N/A
15. Historically Underutilized Business: No
16. Principals and Officers: See attached sheet  
Please detail responsibilities with the name of each principal or officer.
17. Key Personnel and Responsibilities: See attached sheet  
Please detail responsibilities with the name of each key personnel.

EXHIBIT 1  
**DURABLE SPECIALTIES, INC.**

Exhibit "F"

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P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

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**February 6<sup>th</sup> 2014**

**Contractor Name & Address:**

Durable Specialties, Inc.  
PO Box 535969  
Grand Prairie, Texas 75030

**Key Personnel:**

Jeff Bryan, Owner  
38 years experience in traffic signalization construction  
29 years as owner of the company

Zeferino Luna, Superintendent  
29 years experience in traffic signalization construction  
29 years with the company

Kevin Holter, Superintendent  
20 years experience in traffic signalization construction  
19 years with the company

Durable Specialties has constructed traffic signalization projects for 29 years with in-house crews. We have done about 1,200 traffic signalization projects with our in-house crews and in the last three years we have done about 150 traffic signalization projects. Safety Record: All of our traffic signal projects were completed, turned on and passed the required 30 day test period without any safety problems.

**EXHIBIT 1****Exhibit "F"****CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

18. Number of Personnel by Discipline:

19.

Discipline	Number of Staff	# Licensed or Certified
------------	-----------------	-------------------------

20. Services Provided by Firm:

Please provide a detailed listing of all services that your company provides.

Please detail your prior experience working on similar projects with Texas governmental entities.

Please detail your similar services provided over the past two (2) years.

Detail documented proof of at least three (3) projects in the past two (2) years.

Please detail these services, including, the nature of the services provided, and the scope of the activities, the organizations for which the services were provided, the dates of the projects, and the documented benefit to the governmental entity.

21. Has your company filed or been named in any litigation involving your company and the Owner on a contract within the last five years under your current company name or any other company name? If so provide details of the issues and resolution if available. Include lawsuits where Owner was involved. No.

22. Please provide at least (3) three references (*preferably municipalities*) and contract amounts. Include project description, contact names, position, and organization name and telephone number for each reference listed. See attachment F.

23. Have you ever defaulted on or failed to complete a contract under your current company name or any other company name? If so, where and why? Give name and telephone number of Owner. No.

24. Have you ever had a contract terminated by the Owner? If so, where and why? Give name and telephone number (s) of Owner (s). No.

25. Has your company implemented an Employee Health and Safety Program compliant with 29 CFR 1910 "General Industry Standards" and/or 29 CFR 1926 "General Construction Standards" as they apply to your Company's customary activities?

[http://www.osha.gov/pls/oshaweb/owasrch.search\\_form?p\\_doc\\_type=STANDARDS&p\\_toc\\_level=1&p\\_keyvalue=1926](http://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARDS&p_toc_level=1&p_keyvalue=1926)

26. Please indicate the total number of projects your Firm has undertaken within the last five years?

27. Insurance Information

a. Name of Insurance Carrier: Continental Casualty Ins. Co.

b. Agent Name: Frank Siddons

c. Address of Agency: 2900 Marquita Drive

d. City/State: Fort Worth, TX 76116

e. Phone Number: 817-737-4943

f. Email address of Agent: hgravenor@fsifw.com

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

28. List all subcontractors whom respondent estimates will fulfill 15% or more of the contract:

29. Resident/Non-Resident Bidder Determination:

Texas Government Code Section 2252.002: Non-resident bidders. Texas law prohibits cities and other governmental units from awarding contracts to a non-resident firm unless the amount of such a bid is lower than the lowest bid by a Texas resident by the amount the Texas resident would be required to underbid in the non-resident bidders' state. In order to make this determination, please provide the name, address and phone number of:

- a. Proposing firms principle place of business: 2302 Paddock Way Dr., Grand Prairie, TX 75050
- b. Company's majority owner principle place of business: 2302 Paddock Way Dr., Grand Prairie, TX 75050
- c. Ultimate Parent Company's principle place of business: 2302 Paddock Way Dr., Grand Prairie, TX 75050

**EXHIBIT 1****Exhibit "F"****CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS****ATTACHMENT E  
SAFETY RECORD QUESTIONNAIRE**

The City of Denton desires to avail itself of the benefits of Section 252.0435 of the Local Government Code, and consider the safety records of potential contractors prior to awarding bids on City contracts. Pursuant to Section 252.0435 of the Local Government Code, the City of Denton has adopted the following written definition and criteria for accurately determining the safety record of a bidder prior to awarding bids on City contracts.

The definition and criteria for determining the safety record of a bidder for this consideration shall be:

**The City of Denton shall consider the safety record of the bidders in determining the responsibility thereof. The City may consider any incidence involving worker safety or safety of the citizens of the City of Denton, be it related or caused by environmental, mechanical, operational, supervision or any other cause or factor. Specifically, the City may consider, among other things:**

- a. Complaints to, or final orders entered by, the Occupational Safety and Health Review Commission (OSHRC), against the bidder for violations of OSHA regulations within the past three (3) years.
- b. Citations (as defined below) from an Environmental Protection Agency (as defined below) for violations within the past five (5) years. Environmental Protection Agencies include, but are not necessarily limited to, the U.S. Army Corps of Engineers (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), the Texas Natural Resource Conservation Commission (TNRCC) (predecessor to the TCEQ), the Texas Department of Health (TDH), the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection or worker safety related laws or regulations, and similar regulatory agencies of other states of the United States. Citations include notices of violation, notices of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed, pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.
- c. Convictions of a criminal offense within the past ten (10) years, which resulted in bodily harm or death.
- d. Any other safety related matter deemed by the City Council to be material in determining the responsibility of the bidder and his or her ability to perform the services or goods required by the bid documents in a safe environment, both for the workers and other employees of bidder and the citizens of the City of Denton.

In order to obtain proper information from bidders so that City of Denton may consider the safety records of potential contractors prior to awarding bids on City contracts, City of Denton requires that bidders answer the following three (3) questions and submit them with their bids:

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

**QUESTION ONE**

Has the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of OSHA within the past three (3) years?

YES \_\_\_\_\_ NO  X

If the bidder has indicated YES for question number one above, the bidder must provide to City of Denton, with its bid submission, the following information with respect to each such citation:

Date of offense, location of establishment inspected, category of offense, final disposition of offense, if any, and penalty assessed.

**QUESTION TWO**

Has the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of environmental protection laws or regulations, of any kind or type, within the past five years? Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses, or registrations, fines assessed, pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.

YES \_\_\_\_\_ NO  X

If the bidder has indicated YES for question number two above, the bidder must provide to City of Denton, with its bid submission, the following information with respect to each such conviction:

Date of offense or occurrence, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

**QUESTION THREE**

Has the bidder, or the firm, corporation, partnership, or institution represented by bidder, or anyone acting for such firm, corporation, partnership, or institution, ever been convicted, within the past ten (10) years, of a criminal offense which resulted in serious bodily injury or death?

YES \_\_\_\_\_ NO  X

If the bidder has indicated YES for question number three above, the bidder must provide to City of Denton, with its bid submission, the following information with respect to each such conviction:

Date of offense, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

EXHIBIT 1

**DURABLE SPECIALTIES, INC.**

Exhibit "F"

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P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

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**DURABLE SPECIALTIES, INC.  
REFERENCES**

CITY OF FT. WORTH  
5001 JAMES AVE., #301  
FT. WORTH, TEXAS 76115  
ATTN: MARK MATHIS-ENGINEER, KEN BROCK-INSPECTOR  
817-392-7974 OFC  
817-392-2533 FAX

CITY OF FRISCO  
6990 MAIN STREET  
FRISCO, TEXAS 75034  
ATTN: BRIAN MOEN-ENGINEER, TRACY NICHOLS-INSPECTOR  
972-335-5586 OFC  
972-731-4945 FAX

CITY OF ALLEN  
305 CENTURY PARKWAY  
ALLEN, TEXAS 75013  
ATTN: DAVID WHITEHEAD-ENGINEER, MIKE KEALY-INSPECTOR  
214-509-4580 OFC  
214-509-4590 FAX

CITY OF GRAND PRAIRIE  
206 CHURCH ST  
GRAND PRAIRIE, TEXAS 75053  
ATTN: SHOLEH KARIMI-ENGINEER, PETER JOYCE-INSPECTOR  
972-237-8053 OFC  
972-237-8116 FAX

TXDOT DALLAS  
PO BOX 133067  
DALLAS, TEXAS 75313-3067  
ATTN: CHRIS BLAIN-ENGINEER, GREG PERKINS-INSPECTOR  
214-320-6100 OFC  
214-320-4492 FAX

CITY OF MCKINNEY  
1550 S. COLLEGE  
MCKINNEY, TEXAS 75070  
ATTN: SCOTTY STEWART  
972-547-7350 OFC  
972-548-1052 FAX

CITY OF DENTON  
801 TEXAS ST.  
DENTON, TEXAS 76209  
ATTN: SCOTT WILSON  
940-349-8491 OFC  
940-349-7307 FAX

CITY OF UNIVERSITY PARK  
2525 UNIVERSITY BLVD  
UNIVERSITY PARK, TEXAS 75000  
ATTN: RANDY BROWN  
214-363-1644 OFC  
214-987-5438 FAX

CITY OF DUNCANVILLE  
330 SHADY TRAIL  
DUNCANVILLE, TEXAS 75138  
STEVE MILLER-ENGINEER, JOHN BORCHARDT-INSPECTOR  
972-780-5059 OFC  
972-780-6461 FAX

CITY OF DESOTO  
809 WEST SPINNER ROAD  
DESOTO, TEXAS 75115  
MATT MISER-SUPERVISOR, BRAD RUSSELL-INSPECTOR  
972-230-5714 OFC  
972-223-9518 FAX

CITY OF DALLAS  
1500 MARILLA STREET  
DALLAS, TEXAS 75201  
STEVE CHERRYHOLMES-ENGINEER, JOHN THOMPSON-ENGINEER  
214-670-3113 OFC  
214-670-3292 FAX

TOWN OF ADDISON  
16801 WEST GROVE DRIVE  
ADDISON, TEXAS 75001  
ROBIN JONES-ENGINEER, BRANDON GRAHAM-INSPECTOR  
972-450-2871 OFC  
972-450-2837 FAX

CITY OF MESQUITE  
1515 NORTH GALLOWAY AVENUE  
MESQUITE, TEXAS 75185  
SRINI MANDAYAM-ENGINEER, FRANK CANTRELL-INSPECTOR  
972-216-6357 OFC  
972-216-6360 FAX

CITY OF MANSFIELD  
1200 EAST BROAD STREET  
MANSFIELD, TEXAS 76063  
DAVID BOSKI-ENGINEER  
817-276-4208 OFC  
817-477-1416 FAX

EXHIBIT 1

Exhibit "F"

CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS

ATTACHMENT J  
ACKNOWLEDGEMENT

The undersigned agrees this Proposal becomes the property of the City of Denton after the official opening.

The undersigned affirms he has familiarized himself with the specification, drawings and other documents; the local conditions under which the work is to be performed; satisfied himself of the conditions of delivery, handling and storage of materials and equipment; and all other matters that will be required for the work before submitting a proposal. In submitting a proposal the undersigned further understands that the work required is to provide construction of the project that functions as described in the specification. The undersigned understands that all requirements of the construction may not be described in every detail and agrees to provide labor, tools, material and equipment necessary to complete all construction to make the fence functional as described in the specification and drawings before submitting a proposal.

The undersigned agrees, if this proposal is accepted, to furnish any and all items/services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specification. The period for acceptance of this Proposal will be ninety (90) calendar days unless a different period is noted.

The undersigned affirms that they are duly authorized to execute this contract, that this RFP has not been prepared in collusion with any other Proposer, nor any employee of the City of Denton, and that the contents of this RFP have not been communicated to any other proposer or to any employee of the City of Denton prior to the official opening of this bid.

Respondent hereby assigns to the City any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

The undersigned affirms that they have read and do understand the specifications and any attachments contained in this RFP package.

The undersigned agrees that the RFP posted on the website are the official specifications and shall not alter the electronic copy of the specifications and/or pricing sheet (Exhibit 1), without clearly identifying changes.

The undersigned understands they will be responsible for monitoring the City of Denton Purchasing Website at: <http://www.cityofdenton.com/index.aspx?page=397> to ensure they have downloaded and signed all addendum(s) required for submission with their proposal.

I certify that I have made no willful misrepresentations in this Proposal Submission, nor have I withheld information in my statements and answers to questions. I am aware that the information given by me in this proposal will be investigated, with my full permission, and that any misrepresentations or omissions may cause my proposal to be rejected.

Acknowledge receipt of following addenda to the proposal:

Addendum No 1 Dated 1-31-14  
Addendum No 2 Dated \_\_\_\_\_  
Addendum No 3 Dated \_\_\_\_\_

Received   
Received \_\_\_\_\_  
Received \_\_\_\_\_

NAME AND ADDRESS OF COMPANY:

Durable Specialties, Inc  
PO Box 535969  
Grand Prairie, Tx 75053

AUTHORIZED REPRESENTATIVE:

Signature   
Date 1-6-14  
Name Patrick C Bryan  
Title Vice-President  
Fax No. 972-780-7411

Tel. No. 972-296-6324

Email. Patrick@durablepecialties.com

## EXHIBIT 1

Exhibit "F"  
Respondent's Name: **Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
1	840	LF	Trench 2" PVC Schedule 80	Furnish and Install	\$ 10.00	\$ 8,400.00
2	1,700	LF	Trench 2" PVC Schedule 40	Furnish and Install	\$ 9.00	\$ 15,300.00
3	900	LF	Trench 3" PVC Schedule 40	Furnish and Install	\$ 11.00	\$ 9,900.00
4	1,820	LF	Trench 4" PVC Schedule 40	Furnish and Install	\$ 10.00	\$ 18,200.00
5	460	LF	Trench 6" PVC Schedule 40	Furnish and Install	\$ 17.00	\$ 7,820.00
6	600	LF	Directional bore 2" PVC Schedule 80	Furnish and Install	\$ 21.00	\$ 12,600.00
7	600	LF	Directional bore 2" PVC Schedule 40	Furnish and Install	\$ 20.00	\$ 12,000.00
8	1,650	LF	Directional bore 3" PVC Schedule 40	Furnish and Install	\$ 20.00	\$ 33,000.00
9	1,650	LF	Directional bore 4" PVC Schedule 40	Furnish and Install	\$ 21.00	\$ 34,650.00
10	500	LF	Directional bore 6" PVC Schedule 40	Furnish and Install	\$ 30.00	\$ 15,000.00
11	160	LF	Rigid Metallic Conduit (RM) 1"	Furnish and Install	\$ 12.00	\$ 1,920.00
12	160	LF	Rigid Metallic Conduit (RM) 1.5"	Furnish and Install	\$ 14.00	\$ 2,240.00
13	210	LF	Rigid Metallic Conduit (RM) 2"	Furnish and Install	\$ 15.00	\$ 3,150.00
14	320	LF	Rigid Metallic Conduit (RM) 3"	Furnish and Install	\$ 23.00	\$ 7,360.00
15	320	LF	Rigid Metallic Conduit (RM) 4"	Furnish and Install	\$ 25.00	\$ 8,000.00
16	24	EA	Rigid Metallic Conduit (RM) various sizes on timber poles	Remove	\$ 100.00	\$ 2,400.00
17	12	EA	Ground box Type B with apron	Furnish and Install	\$ 780.00	\$ 9,360.00
18	12	EA	Ground box (city supplied box only) Type B with apron	Furnish and Install	\$ 600.00	\$ 7,200.00
19	40	EA	Ground box Type D with apron	Furnish and Install	\$ 800.00	\$ 32,000.00
20	40	EA	Ground box (city supplied box only) Type D with apron	Furnish and Install	\$ 600.00	\$ 24,000.00
21	48	EA	Ground box with apron	Remove	\$ 100.00	\$ 4,800.00
22	4	EA	Traffic signal cabinet with terminations (pad mounted) no concrete or base	Install	\$ 7,500.00	\$ 30,000.00
23	10	EA	Traffic signal cabinet breakaway base and concrete pad (8'x9'x6")	Furnish and Install	\$ 2,400.00	\$ 24,000.00
24	3	EA	Traffic signal cabinet concrete pad (8'x9'x6")	Furnish and Install	\$ 2,100.00	\$ 6,300.00
25	4	EA	Traffic signal cabinet (pad mounted) with base	Remove	\$ 500.00	\$ 2,000.00
26	4	EA	Traffic signal cabinet (pad mounted) with base and concrete pad	Remove	\$ 900.00	\$ 3,600.00
27	3	EA	Traffic signal cabinet concrete pad	Remove	\$ 400.00	\$ 1,200.00
28	10	EA	Battery backup unit (BBU) external cabinet on traffic signal cabinet	Install	\$ 600.00	\$ 6,000.00
29	2	EA	Meter pedestal service with terminations (pad mounted) no concrete pad	Install	\$ 2,000.00	\$ 4,000.00
30	10	EA	Meter pedestal service with terminations (pad mounted) with concrete pad	Furnish and Install	\$ 5,000.00	\$ 50,000.00

## EXHIBIT 1

Respondent's Name: **Exhibit "F"**  
**Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
31	2	EA	Meter pedestal service concrete pad	Furnish and Install	\$ 900.00	\$ 1,800.00
32	4	EA	Meter pedestal electrical service and concrete pad	Remove	\$ 500.00	\$ 2,000.00
33	4	EA	Electrical service, overhead	Remove	\$ 500.00	\$ 2,000.00
34	320	LF	24-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 175.00	\$ 56,000.00
35	48	LF	30-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 200.00	\$ 9,600.00
36	52	LF	36-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 225.00	\$ 11,700.00
37	72	LF	42-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 245.00	\$ 17,640.00
38	528	LF	48-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 275.00	\$ 145,200.00
39	12	EA	Signal pole foundation (18" below ground minimum)	Remove	\$ 500.00	\$ 6,000.00
40	16	EA	Long Mast Arm (Assembly) with 50'-65' mast arm	Install	\$ 1,800.00	\$ 28,800.00
41	4	EA	Long Mast Arm (Assembly) with 50'-65' mast arm, no luminaire or ILSN arm	Install	\$ 900.00	\$ 3,600.00
42	6	EA	Long Mast Arm Pole	Install	\$ 900.00	\$ 5,400.00
43	6	EA	Long Mast Arm 50'-65'	Install	\$ 900.00	\$ 5,400.00
44	8	EA	Long Mast Arm (Assembly) with 50'-65' mast arm	Remove	\$ 1,100.00	\$ 8,800.00
45	8	EA	Long Mast Arm 50'-65'	Remove	\$ 600.00	\$ 4,800.00
46	8	EA	Single Mast Arm (Assembly) with 36'-48' mast arm	Install	\$ 1,200.00	\$ 9,600.00
47	4	EA	Single Mast Arm (Assembly) with 36'-48' mast arm, no luminaire or ILSN arm	Install	\$ 650.00	\$ 2,600.00
48	4	EA	Single Mast Arm Pole (for a 36'-48' arm)	Install	\$ 650.00	\$ 2,600.00
49	4	EA	Single Mast Arm 36'-48'	Install	\$ 650.00	\$ 2,600.00
50	8	EA	Single Mast Arm (Assembly) with a 36'-48' mast arm	Remove	\$ 900.00	\$ 7,200.00
51	8	EA	Single Mast Arm 36'-48'	Remove	\$ 450.00	\$ 3,600.00
52	2	EA	Single Mast Arm (Assembly) with 20'-32' mast arm	Install	\$ 1,100.00	\$ 2,200.00
53	2	EA	Single Mast Arm (Assembly) with 20'-32' mast arm, no luminaire or ILSN arm	Install	\$ 1,100.00	\$ 2,200.00
54	2	EA	Single Mast Arm Pole (for a 20'-32' arm)	Install	\$ 550.00	\$ 1,100.00
55	2	EA	Single Mast Arm 20'-32'	Install	\$ 550.00	\$ 1,100.00
56	4	EA	Single Mast Arm (Assembly) with a 20'-32' mast arm	Remove	\$ 500.00	\$ 2,000.00
57	4	EA	Single Mast Arm 20'-32'	Remove	\$ 500.00	\$ 2,000.00
58	4	EA	Strain Pole (Assembly), 34'	Install	\$ 800.00	\$ 3,200.00
59	2	EA	Strain Pole (Assembly), 34', no luminaire or ILSN arms	Install	\$ 800.00	\$ 1,600.00
60	4	EA	Strain Pole (Assembly)	Remove	\$ 400.00	\$ 1,600.00

## EXHIBIT 1

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

### RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS

The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.

#### Product Proposal Pricing:

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
61	16	EA	Luminaire Arm 8-10'	Install	\$ 150.00	\$ 2,400.00
62	24	EA	Luminaire Arm 25'	Install	\$ 200.00	\$ 4,800.00
63	40	EA	ILSN Arm 7'-9'	Install	\$ 100.00	\$ 4,000.00
64	4	EA	Luminaire Arm	Remove	\$ 50.00	\$ 200.00
65	4	EA	ILSN Arm	Remove	\$ 50.00	\$ 200.00
66	12	EA	50', Class 1 timber pole	Install	\$ 775.00	\$ 9,300.00
67	2	EA	50', Class 1 timber pole	Furnish and Install	\$ 1,800.00	\$ 3,600.00
68	4	EA	50', Class 1, timber pole assembly, one anchor design	Furnish and Install	\$ 2,100.00	\$ 8,400.00
69	16	EA	50', Class 1, timber pole assembly, two anchor design	Furnish and Install	\$ 2,400.00	\$ 38,400.00
70	8	EA	Timber pole anchor assembly	Furnish and Install	\$ 275.00	\$ 2,200.00
71	4	EA	Timber pole (entire pole)	Remove	\$ 375.00	\$ 1,500.00
72	4	EA	Timber pole (18" below ground)	Remove	\$ 375.00	\$ 1,500.00
73	8	EA	5-section signal head assembly	Install	\$ 700.00	\$ 5,600.00
74	20	EA	5-section (cluster) signal head assembly	Install	\$ 700.00	\$ 14,000.00
75	36	EA	4-section signal head assembly	Install	\$ 575.00	\$ 20,700.00
76	72	EA	3-section signal head assembly	Install	\$ 450.00	\$ 32,400.00
77	8	EA	5-section (city supplied) signal head (pole mounted)	Furnish and Install	\$ 850.00	\$ 6,800.00
78	20	EA	5-section (cluster) (city supplied) signal head (pole mounted)	Furnish and Install	\$ 950.00	\$ 19,000.00
79	64	EA	4-section (city supplied) signal head (pole mounted)	Furnish and Install	\$ 750.00	\$ 48,000.00
80	72	EA	3-section (city supplied) signal head (pole mounted)	Furnish and Install	\$ 650.00	\$ 46,800.00
81	8	EA	5-section (city supplied) signal head (span mounted)	Furnish and Install	\$ 1,100.00	\$ 8,800.00
82	8	EA	5-section (cluster) (city supplied) signal head (span mounted)	Furnish and Install	\$ 1,100.00	\$ 8,800.00
83	16	EA	4-section (city supplied) signal head (span mounted)	Furnish and Install	\$ 1,000.00	\$ 16,000.00
84	48	EA	3-section (city supplied) signal head (span mounted)	Furnish and Install	\$ 850.00	\$ 40,800.00
85	48	EA	Signal head assembly	Remove	\$ 150.00	\$ 7,200.00
86	20	EA	Regulatory sign	Install	\$ 70.00	\$ 1,400.00
87	48	EA	Regulatory sign (city supplied) (pole mounted)	Furnish and Install	\$ 100.00	\$ 4,800.00
88	36	EA	Regulatory sign (city supplied) (span mounted)	Furnish and Install	\$ 235.00	\$ 8,460.00
89	4	EA	Street name sign	Install	\$ 140.00	\$ 560.00
90	4	EA	Street name sign (city supplied) (pole mounted)	Furnish and Install	\$ 200.00	\$ 800.00
91	4	EA	Street name sign (city supplied) (span mounted)	Furnish and Install	\$ 300.00	\$ 1,200.00
92	24	EA	Sign (Regulatory/Street name)	Remove	\$ 70.00	\$ 1,680.00
93	40	EA	ILSN Sign 6'	Install	\$ 300.00	\$ 12,000.00

## EXHIBIT 1

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
94	12	EA	ILSN Sign 6'	Remove	\$ 200.00	\$ 2,400.00
95	40	EA	Luminaire head	Install	\$ 70.00	\$ 2,800.00
96	4	EA	Luminaire head	Remove	\$ 70.00	\$ 280.00
97	40	EA	Wind dampener (city supplied sign) for mast arm	Furnish and Install	\$ 250.00	\$ 10,000.00
98	4	EA	Wind dampener for mast arm	Remove	\$ 70.00	\$ 280.00
99	8	EA	VIVIDS (video detection camera)	Install	\$ 250.00	\$ 2,000.00
100	12	EA	Pan/Tilt/Zoom camera (PTZ)	Install	\$ 250.00	\$ 3,000.00
101	20	EA	Advance radar detection	Install	\$ 350.00	\$ 7,000.00
102	40	EA	Presence radar detection	Install	\$ 350.00	\$ 14,000.00
103	20	EA	Opticom detector	Install	\$ 200.00	\$ 4,000.00
104	10	EA	Wireless radio with antenna(s)	Install	\$ 200.00	\$ 2,000.00
105	2	EA	Spread Spectrum Radio (SSR) antenna	Install	\$ 125.00	\$ 250.00
106	12	EA	VIVIDS (video detection camera)	Remove	\$ 125.00	\$ 1,500.00
107	4	EA	Pan/Tilt/Zoom camera (PTZ)	Remove	\$ 125.00	\$ 500.00
108	4	EA	Advance radar detection	Remove	\$ 125.00	\$ 500.00
109	8	EA	Presence radar detection	Remove	\$ 125.00	\$ 1,000.00
110	8	EA	Opticom detector	Remove	\$ 125.00	\$ 1,000.00
111	4	EA	Wireless radio with antenna(s)	Remove	\$ 125.00	\$ 500.00
112	4	EA	Spread Spectrum Radio (SSR) antenna	Remove	\$ 60.00	\$ 240.00
113	2	EA	Roadside flasher beacon assembly (solar powered)	Install	\$ 2,500.00	\$ 5,000.00
114	2	EA	Roadside flasher beacon assembly	Remove	\$ 650.00	\$ 1,300.00
115	48	EA	Pedestrian head with LED insert on metal pole	Install	\$ 255.00	\$ 12,240.00
116	32	EA	Pedestrian head with LED insert on timber pole	Install	\$ 500.00	\$ 16,000.00
117	48	EA	Pedestrian button station assembly on metal pole	Install	\$ 70.00	\$ 3,360.00
118	32	EA	Pedestrian button station assembly on timber pole	Install	\$ 125.00	\$ 4,000.00
119	24	EA	Pedestrian push button pole assembly	Install	\$ 375.00	\$ 9,000.00
120	36	EA	Pedestrian push button pole assembly with 4' pole	Furnish and Install	\$ 725.00	\$ 26,100.00
121	12	EA	Pedestrian push button pole assembly with 16' pole	Furnish and Install	\$ 1,200.00	\$ 14,400.00
122	24	EA	Pedestrian head	Remove	\$ 125.00	\$ 3,000.00
123	24	EA	Pedestrian button station	Remove	\$ 60.00	\$ 1,440.00
124	8	EA	Pedestrian push button pole assembly	Remove	\$ 255.00	\$ 2,040.00
125	600	LF	Zinc-coat steel wire strand (3/16 in)	Furnish and install	\$ 2.00	\$ 1,200.00
126	1,600	LF	Zinc-coat steel wire strand (1/4 in)	Furnish and install	\$ 2.00	\$ 3,200.00

## EXHIBIT 1

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

### RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS

The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.

#### Product Proposal Pricing:

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
127	600	LF	Zinc-coat steel wire strand (5/16 in)	Furnish and install	\$ 2.00	\$ 1,200.00
128	6,800	LF	Zinc-coat steel wire strand (3/8 in)	Furnish and install	\$ 2.00	\$ 13,600.00
129	1,200	LF	Zinc-coat steel wire strand	Remove	\$ 1.00	\$ 1,200.00
130	2	EA	Entire mast arm pole intersection, 3 pole design	Remove	\$ 2,100.00	\$ 4,200.00
131	2	EA	Entire mast arm pole intersection, 4 pole design	Remove	\$ 2,700.00	\$ 5,400.00
132	1	EA	Entire timber pole intersection, 3 pole design	Remove	\$ 1,390.00	\$ 1,390.00
133	2	EA	Entire timber pole intersection, 4 pole design	Remove	\$ 1,800.00	\$ 3,600.00
134	14,200	LF	Traffic Signal Cable (Type A) 14 AWG (7 conductor)	Furnish and Install	\$ 1.00	\$ 14,200.00
135	400	LF	Traffic Signal Cable (Type A) 14 AWG (9 conductor)	Furnish and Install	\$ 1.00	\$ 400.00
136	400	LF	Traffic Signal Cable (Type A) 14 AWG (10 conductor)	Furnish and Install	\$ 2.00	\$ 800.00
137	4,800	LF	Traffic Signal Cable (Type A) 14 AWG (21 conductor)	Furnish and Install	\$ 3.00	\$ 14,400.00
138	4,800	LF	Traffic Signal Cable (Type A) 14 AWG (25 conductor)	Furnish and Install	\$ 3.50	\$ 16,800.00
139	300	LF	Traffic Signal Cable (Type C) 12 AWG (2 conductor)	Furnish and Install	\$ 1.00	\$ 300.00
140	300	LF	Traffic Signal Cable (Type C) 14 AWG (2 conductor)	Furnish and Install	\$ 1.00	\$ 300.00
141	300	LF	Traffic Signal Cable (Type C) 18 AWG (2 conductor)	Furnish and Install	\$ 1.00	\$ 300.00
142	950	LF	Electric conductor stranded (No. 4 AWG) insulated	Furnish and Install	\$ 2.00	\$ 1,900.00
143	200	LF	Electric conductor stranded (No. 4 AWG) bare	Furnish and Install	\$ 2.00	\$ 400.00
144	600	LF	Electric conductor stranded (No. 6 AWG) insulated	Furnish and Install	\$ 1.00	\$ 600.00
145	200	LF	Electric conductor stranded (No. 6 AWG) bare	Furnish and Install	\$ 1.00	\$ 200.00
146	200	LF	Electric conductor solid (No. 6 AWG) bare	Furnish and Install	\$ 1.00	\$ 200.00
147	325	LF	Electric conductor stranded (No. 8 AWG) insulated	Furnish and Install	\$ 1.00	\$ 325.00
148	125	LF	Electric conductor stranded (No. 8 AWG) bare	Furnish and Install	\$ 1.00	\$ 125.00
149	4,600	LF	Tray Cable 12 AWG (3 conductor)	Furnish and Install	\$ 1.00	\$ 4,600.00
150	4,600	LF	Tray Cable 14 AWG (3 conductor)	Furnish and Install	\$ 1.00	\$ 4,600.00
151	720	LF	Tray Cable 16 AWG (3 conductor)	Furnish and Install	\$ 1.00	\$ 720.00
152	450	LF	Tray Cable 12 AWG (4 conductor)	Furnish and Install	\$ 1.00	\$ 450.00
153	320	LF	Tray Cable 14 AWG (4 conductor)	Furnish and Install	\$ 1.00	\$ 320.00
154	2,400	LF	GTT Opticom System Cable 20 AWG (3 conductor) black sheilded	Furnish and Install	\$ 1.00	\$ 2,400.00
155	1,000	LF	Belden 7919A Cat 5E black sheilded or equal	Furnish and Install	\$ 3.50	\$ 3,500.00
156	1,500	LF	Multiconductor cable (1/4" O.D. and smaller )	Install	\$ 1.00	\$ 1,500.00
157	1,800	LF	Multiconductor cable (5/16" - 3/8" O.D.)	Install	\$ 1.00	\$ 1,800.00
158	1,200	LF	Multiconductor cable (7/16" - 5/8" O.D.)	Install	\$ 1.50	\$ 1,800.00
159	1,200	LF	Multiconductor cable (11/16" - 7/8" O.D.)	Install	\$ 1.50	\$ 1,800.00

**EXHIBIT 1**

**Exhibit "F"**  
Respondent's Name: **Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
160	1,500	LF	Single or multiconductor cable (1/4" O.D. and smaller )	Remove	\$ 0.50	\$ 750.00
161	1,500	LF	Single or multiconductor cable (5/16" - 3/8" O.D.)	Remove	\$ 0.50	\$ 750.00
162	1,500	LF	Single or multiconductor cable (7/16" - 5/8" O.D.)	Remove	\$ 0.50	\$ 750.00
163	1,500	LF	Single or multiconductor cable (11/16" - 7/8" O.D.)	Remove	\$ 0.50	\$ 750.00
<b>Total Cost of Products (Annual)</b>						<b>\$ 1,396,500.00</b>

**Additional Services**

Item	UOM	Product Description	Description 2	Unit Price
164	Hourly	Contractor Services Price Per Hour with Aerial Truck	This includes aerial & ground services	<b>\$200.00</b>
165	Hourly	Contractor Services Price Per Hour for span wire intersections	This includes aerial, ground, and span pole installation/removal services.	<b>\$400.00</b>
166	Hourly	Contractor Services Price Per Hour for mast arm pole intersections	This includes aerial, ground, and mast arm pole installation/removal services.	<b>\$400.00</b>
167	%	Mobilization	Percent of total purchase order amount (Smaller projects) not to exceed 15%	<b>10</b>
168	Ea	Mobilization per Intersection	For complete intersection builds	<b>\$2,500.00</b>
169	Days	Timeline to start Project	Scheduled time contractor can start a signal project in Denton after notice to proceed through a purchase order	<b>50</b>
170	Hrs	Arrival time to start Emergency Project	Emergency response for a contractor to repair/replace signals in Denton	<b>4</b>

**EXHIBIT 1**

**RFP #5442**

**Exhibit "F"  
Addendum # 1**

**GENERAL NOTES FOR BID LINE ITEMS:**

All materials shall be of the latest City of Denton / TXDOT specifications with their corresponding item codes

Install items shall be with city supplied materials unless otherwise noted on line item

Furnish and install items shall be with contractor supplied materials unless otherwise noted on line item

All bid line item installations shall be completed with terminations and fully operational after installation

Ground box, signal cabinet pad, and meter pedestal pad installations shall include conduit stub ups and tie-ins with bell ends at the end of each conduit.

Traffic signal cabinet base shall be Armorcast A6001848X24TXDT or a predetermined city approved equal.

Meter pedestal service shall be Electrol systems, TXDOT standard green powder coated aluminum type D pedestal, TYD 120/240 070 (NS)AL(E)PS(U): 1-50a/1p for traffic signal, 2-20a/1p for lighting, 1-15a/1p for control circuit, interior photo cell with windows, 30 amp lighting contactor, and HOA selector switch.

All mast arm or timber pole assemblies shall include pickup and delivery from and to job site in Denton unless contractor supplied.

Timber poles shall be creosote-treated southern yellow pine and shall be set using approved expanding foam method.

Furnish and Install timber pole assemblies include a one or two anchor design, and in each case, shall contain all connecting hardware for each strand wire support and each pole anchor guy. Some installations may include a guy spreader.

Timber pole anchors shall be set using Class C concrete and contain all guy cable and connecting hardware from anchor to timber pole.

Pedestrian head installations on timber poles shall include a NEMA type 3R junction box with a liquid tight conduit to each pedestrian head and associated mounting hardware.

Pedestrian push button station installations on timber poles shall include a liquid tight conduit to pedestrian head junction box with associated mounting hardware.

Pedestrian push button pole assembly furnish and installs shall contain Peico parts consisting of 1 EA: PB-5335-GL-PNC, PB-5306, PB-5325, PB-5401, AND PB-5100

**EXHIBIT 1**

**RFP #5442**

**Exhibit "F"  
Addendum # 1**

**GENERAL NOTES FOR BID LINE ITEMS:**

Rigid metallic (RM) conduit shall contain appropriate weather head and mounting hardware.

Salvage existing traffic signals and equipment as shown on plans and as directed by the City of Denton. Removal of each intersection shall include all above and below ground traffic signal related items except for electrical services. Conduit stub ups and concrete foundations must be removed 18" below ground and then can be abandoned. ADA ramps and pavement markings are excluded.

Wind dampener (dampening plate) only will be supplied by the city; all other mounting hardware shall be provided and installed by the contractor.

Traffic signal pole foundation anchor bolts will be supplied by the city at time of foundation installation.

Long and single mast arm assemblies will contain a vertical pole assembly, a mast arm, a luminaire arm, an ILSN arm, and an anchor bolt base cover.

Strain pole assemblies will contain the vertical pole, a luminaire arm, an ILSN arm, and an anchor bolt base cover.

Install signal head items shall include labor only for a complete assembly using LEDs, visors, backplates, and mounting hardware.

Furnish and Install signal head items shall include labor only except for contractor supplied Pelco AS-0125/AS-0138 signal head mounting hardware for pole mount or SP-3058-TX-ALO/AS-0138 signal head mounting hardware for span mount.

Furnish and Install Regulatory and Street name sign items shall be a city supplied sign and line item cost will only include the sign's mounting hardware and labor.

Timeline to complete each workorder, after notice to proceed through a purchase order, will be 30 working days for a 4 pole intersection, and 45 days for a 6 pole intersection.

City supplied materials to signal contractor that will need to be programmed for signal operation, will be the responsibility of the City of Denton. Installation/mounting and mounting adjustments of such items will be a pay item to the signal contractor.

**EXHIBIT 1**

**Exhibit "F"**

**Texas Franchise Tax Public Information Report**



05-102  
(Rev. 9-11/30)

To be filed by Corporations, Limited Liability Companies (LLC) and Financial Institutions  
This report **MUST** be signed and filed to satisfy franchise tax requirements

Code 13196 Franchise

■ Taxpayer number

■ Report year

*You have certain rights under Chapter 552 and 559, Government Code, to review, request, and correct information we have on file about you. Contact us at (800) 252-1381 or (512) 463-4600.*

1 7 5 1 9 6 3 4 5 9 0

2 0 1 3

Taxpayer name <b>DURABLE SPECIALTIES, INC.</b>					Secretary of State (SOS) file number or Comptroller file number	
Mailing address <b>PO BOX 535969</b>					0070837900	
City <b>GRAND PRAIRIE</b>	State <b>TX</b>	ZIP Code <b>75053</b>	Plus 4			

Blacken circle if there are currently no changes from previous year; if no information is displayed, complete the applicable information in Sections A, B and C.

Principal office <b>2302 Paddock Way Dr. Grand Prairie, Texas 75050</b>
Principal place of business <b>2302 Paddock Way Dr. Grand Prairie, Texas 75050</b>

*Please sign below!*

Officer, director and manager information is reported as of the date a Public Information Report is completed. The information is updated annually as part of the franchise tax report. There is no requirement or procedure for supplementing the information as officers, directors, or managers change throughout the year.



**SECTION A** Name, title and mailing address of each officer, director or manager.

1751963459013

Name <b>CAROL RICHTER</b>	Title <b>TREASURER</b>	Director <input type="radio"/> YES	Term expiration m m d d y y <b>1 2 3 1 1 5</b>
Mailing address <b>PO BOX 535969</b>	City <b>GRAND PRAIRIE</b>	State <b>TX</b>	ZIP Code <b>75053</b>
Name <b>Jennifer A Warnack</b>	Title <b>VP Finance</b>	Director <input type="radio"/> YES	Term expiration m m d d y y <b>1 2 3 1 1 5</b>
Mailing address <b>PO Box 535969</b>	City <b>Grand Prairie</b>	State <b>TX</b>	ZIP Code <b>75053</b>
Name	Title	Director <input type="radio"/> YES	Term expiration m m d d y y
Mailing address	City	State	ZIP Code

**SECTION B** Enter the information required for each corporation or LLC, if any, in which this entity owns an interest of 10 percent or more.

Name of owned (subsidiary) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of ownership
Name of owned (subsidiary) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of ownership

**SECTION C** Enter the information required for each corporation or LLC, if any, that owns an interest of 10 percent or more in this entity or limited liability company.

Name of owned (parent) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of ownership
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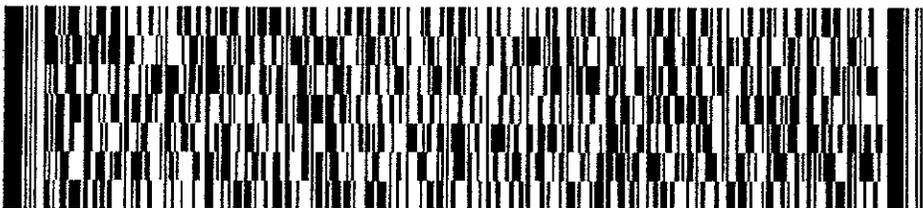
Registered agent and registered office currently on file. (see instructions if you need to make changes)			
Agent: <b>JEFFREY C BRYAN</b>	<input type="radio"/> Blacken circle if you need forms to change the registered agent or registered office information.		
Office: <b>5208 BYERS AVENUE</b>	City: <b>FORT WORTH</b>	State: <b>TX</b>	ZIP Code: <b>76107</b>

The above information is required by Section 171.203 of the Tax Code for each corporation or limited liability company that files a Texas Franchise Tax Report. Use additional sheets for Sections A, B, and C, if necessary. The information will be available for public inspection.

I declare that the information in this document and any attachments is true and correct to the best of my knowledge and belief, as of the date below, and that a copy of this report has been mailed to each person named in this report who is an officer, director or manager and who is not currently employed by this, or a related, corporation or limited liability company.

sign here) <b>CAROL A RICHTER</b>	Title <b>Electronic</b>	Date <b>08-12-2013</b>	Area code and phone number <b>( 972 ) 296 - 6324</b>
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**Texas Comptroller Official Use Only**



VE/DE	<input type="radio"/>	PIR IND	<input type="radio"/>
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**EXHIBIT 1**

**ATTACHMENT G**

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
<b>For vendor or other person doing business with local governmental entity</b>		<b>OFFICE USE ONLY</b>
<b>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.</b>		
<p>This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).</p> <p>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 person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>		
<b>1</b>	Name of person who has a business relationship with local governmental entity.	
<b>2</b>	<input type="checkbox"/> 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 7 <sup>th</sup> business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)	
<b>3</b>	Name of local government officer with whom filer has an employment or business relationship.  <div style="text-align: center; border-top: 1px solid black; width: 30%; margin: 0 auto;">Name of Officer</div> <p>This section, (item 3 including subparts A, B, C &amp; D), must be completed for each officer with whom the filer 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.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>B. Is the filer of the questionnaire 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?  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>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 10 percent or more?  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>D. Describe each affiliation or business relationship.</p>	
<b>4</b>	<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; border-top: 1px solid black; text-align: center;">Signature of person doing business with the governmental entity</div> <div style="width: 45%; border-top: 1px solid black; text-align: center;">Date</div> </div>	

**EXHIBIT 1**

# EXHIBIT 1



## Certificate Of Completion

Envelope Id: AC6491CE154F495BAE0EB3556CC431C8	Status: Completed	
Subject: Please DocuSign: 5442 - Contract Amendment #2.pdf		
Source Envelope:		
Document Pages: 120	Signatures: 2	Envelope Originator:
Supplemental Document Pages: 0	Initials: 0	Jody Word
Certificate Pages: 5		
AutoNav: Enabled	Payments: 0	jody.word@cityofdenton.com
Envelope Stamping: Enabled		IP Address: 129.120.6.150
Time Zone: (UTC-08:00) Pacific Time (US & Canada)		

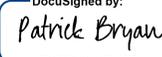
## Record Tracking

Status: Original 4/13/2017 7:00:13 AM	Holder: Jody Word jody.word@cityofdenton.com	Location: DocuSign
--	---	--------------------

## Signer Events

Patrick Bryan  
Patrick@durablespecialties.com  
VP of Operations  
Durable Specialties, Inc.  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
Accepted: 4/14/2017 4:26:21 AM  
ID: 8d39e99b-22ca-4c12-888d-e0bc8ccdfdf

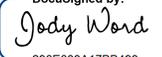
## Signature

DocuSigned by:  
  
A7123D0849E84D7...  
Using IP Address: 50.84.141.26

## Timestamp

Sent: 4/13/2017 7:22:54 AM  
Viewed: 4/14/2017 4:26:21 AM  
Signed: 4/14/2017 4:26:35 AM

Jody Word  
jody.word@cityofdenton.com  
Buyer  
City of Denton  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
Not Offered via DocuSign  
ID:

DocuSigned by:  
  
296E603A17BB493...  
Using IP Address: 129.120.6.150

Sent: 4/14/2017 4:26:37 AM  
Viewed: 4/14/2017 6:38:26 AM  
Signed: 4/14/2017 6:38:56 AM

## In Person Signer Events

## Signature

## Timestamp

## Editor Delivery Events

## Status

## Timestamp

## Agent Delivery Events

## Status

## Timestamp

## Intermediary Delivery Events

## Status

## Timestamp

## Certified Delivery Events

## Status

## Timestamp

## Carbon Copy Events

## Status

## Timestamp

Julia Winkley  
julia.winkley@cityofdenton.com  
Contracts Administration Supervisor  
City of Denton  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
Not Offered via DocuSign  
ID:

**COPIED**

Sent: 4/14/2017 6:38:58 AM

**EXHIBIT 1**

<b>Carbon Copy Events</b>	<b>Status</b>	<b>Timestamp</b>
Melissa Hedgepeth Melissa@durablespecialties.com Administrative Asst Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:	<b>COPIED</b>	Sent: 4/14/2017 6:38:59 AM

<b>Notary Events</b>	<b>Timestamp</b>
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<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
Envelope Sent	Hashed/Encrypted	4/14/2017 6:38:59 AM
Certified Delivered	Security Checked	4/14/2017 6:38:59 AM
Signing Complete	Security Checked	4/14/2017 6:38:59 AM
Completed	Security Checked	4/14/2017 6:38:59 AM

<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
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<b>Electronic Record and Signature Disclosure</b>
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## EXHIBIT 1

### **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

#### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

#### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

#### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

#### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

## EXHIBIT 1

### **How to contact City of Denton:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: kevin.gunn@cityofdenton.com

### **To advise City of Denton of your new e-mail address**

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at kevin.gunn@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

### **To request paper copies from City of Denton**

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### **To withdraw your consent with City of Denton**

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to kevin.gunn@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"><li>•Allow per session cookies</li><li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li></ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

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### **Acknowledging your access and consent to receive materials electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

**EXHIBIT 1**

THE STATE OF TEXAS           §  
  §  
COUNTY OF DENTON           §

FIRST AMENDMENT TO CONTRACT  
BY AND BETWEEN THE CITY OF DENTON, TEXAS  
AND DURABLE SPECIALTIES, INC.  
RFP NO. 5442

THIS FIRST AMENDMENT TO CONTRACT 5442 (“Amendment”) by and between the City of Denton, Texas (“City”) and Durable Specialties, Inc. (“Supplier”);

The CITY deems it necessary to further expand the goods/services provided by SUPPLIER to the CITY;

NOW THEREFORE,

1. Exhibit B “Special Terms and Conditions”, **Total Contract Amount** of the Agreement is hereby amended to read as follows:

“Total Contract Amount for services shall not exceed \$4,500,000 per term. Pricing shall be per Exhibit C attached, the contract amount remains the same.

2. Exhibit A “City of Denton Request for Proposal”, of the contract we are wanting to extend this contract for additional six (6) months which will be extended till **October 1, 2017**”

All other provisions of the contract 5442, as heretofore amended, remain in full force and effect.

IN WITNESS WHEREOF, the CITY and the SUPPLIER, have each executed this Amendment, by and through their respective duly authorized representatives and officers on this the \_\_\_\_\_ day of 3/16/2017, 2017.

**EXHIBIT 1**

“CITY”

CITY OF DENTON, TEXAS  
A Texas Municipal Corporation

By: DocuSigned by:  
Elton Brock  
4E9FEBACE935410  
ELTON BROCK  
PURCHASING MANAGER

“SUPPLIER”

DURABLE SPECIALTIES, INC.  
A Corporation

By: DocuSigned by:  
Patrick Bryan  
A7123D0849E84D7 3/16/2017  
AUTHORIZED SIGNATURE, TITLE

# EXHIBIT 1



## Certificate Of Completion

Envelope Id: 1065C76FEAD84D4A952D4FB823D1F7B1  
Subject: 5442-Construction of Traffic Intersections with Durable Specilities Inc. - Amendment #1  
Source Envelope:  
Document Pages: 2  
Supplemental Document Pages: 0  
Certificate Pages: 5  
AutoNav: Enabled  
Envelopeld Stamping: Enabled  
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Status: Completed  
Envelope Originator:  
Jody Word  
jody.word@cityofdenton.com  
IP Address: 129.120.6.150

## Record Tracking

Status: Original  
3/10/2017 9:28:11 AM  
Holder: Jody Word  
jody.word@cityofdenton.com  
Location: DocuSign

## Signer Events

Patrick Bryan  
Patrick@durablespecialties.com  
VP of Operations  
Security Level: Email, Account Authentication (Optional)

## Signature

DocuSigned by:  
*Patrick Bryan*  
A7123D0849E84D7...  
Using IP Address: 50.84.141.26

## Timestamp

Sent: 3/10/2017 9:37:20 AM  
Resent: 3/14/2017 8:33:22 AM  
Resent: 3/15/2017 2:30:40 PM  
Viewed: 3/16/2017 3:40:14 AM  
Signed: 3/16/2017 3:40:27 AM

Electronic Record and Signature Disclosure:  
Accepted: 3/16/2017 3:40:14 AM  
ID: 293fd9f5-7526-4a07-a4fb-9aab3691c32e

Elton Brock  
elton.brock@cityofdenton.com  
Purchasing Manager  
City of Denton  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
Not Offered via DocuSign  
ID:

DocuSigned by:  
*Elton Brock*  
4E9FEBACE935410...  
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Viewed: 3/16/2017 6:52:09 AM  
Signed: 3/16/2017 6:52:22 AM

## In Person Signer Events

## Signature

## Timestamp

## Editor Delivery Events

## Status

## Timestamp

## Agent Delivery Events

## Status

## Timestamp

## Intermediary Delivery Events

## Status

## Timestamp

## Certified Delivery Events

## Status

## Timestamp

## Carbon Copy Events

## Status

## Timestamp

Jody Word  
jody.word@cityofdenton.com  
Buyer  
City of Denton  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
Not Offered via DocuSign  
ID:

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Sent: 3/16/2017 6:52:23 AM  
Resent: 3/16/2017 6:52:27 AM  
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Julia Winkley  
julia.winkley@cityofdenton.com  
Contracts Administration Supervisor  
City of Denton  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
Not Offered via DocuSign  
ID:

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Mark Nelson  
mark.nelson@cityofdenton.com  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
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ID:

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Sent: 3/16/2017 6:52:25 AM

Scott Wilson  
scott.wilson@cityofdenton.com  
Security Level: Email, Account Authentication (Optional)  
Electronic Record and Signature Disclosure:  
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ID:

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## Notary Events

### Timestamp

## Envelope Summary Events

### Status

### Timestamps

Envelope Sent	Hashed/Encrypted	3/16/2017 6:52:26 AM
Certified Delivered	Security Checked	3/16/2017 6:52:26 AM
Signing Complete	Security Checked	3/16/2017 6:52:26 AM
Completed	Security Checked	3/16/2017 6:52:26 AM

## Payment Events

### Status

### Timestamps

## Electronic Record and Signature Disclosure

## EXHIBIT 1

Electronic Record and Signature Disclosure created on: 4/20/2015 7:25:38 AM

Parties agreed to: Patrick Bryan

### **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

#### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

#### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

#### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

#### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

## EXHIBIT 1

### How to contact City of Denton:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: kevin.gunn@cityofdenton.com

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- ii. send us an e-mail to kevin.gunn@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"><li>•Allow per session cookies</li><li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li></ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

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- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
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**EXHIBIT 1**

# EXHIBIT 1

## Exhibit "B"

### CITY OF DENTON GENERAL CONDITIONS FOR BUILDING CONSTRUCTION ARTICLE 1 GENERAL PROVISIONS

#### GENERAL DEFINITIONS

#### 1.1 The following definitions apply throughout these General Conditions and to the other Contract Documents:

##### a) THE CONTRACT DOCUMENTS

The Contract Documents consist of the formal Building Construction Services Agreement between the Owner and the Contractor, these General Conditions and other supplementary conditions included by special provisions or addenda, drawings, specifications, addenda issued prior to execution of the Contract, other documents listed in the Contract, and Amendments issued after execution of the Contract. For purposes of these General Conditions, an Amendment is:

- (1) a written Supplemental Agreement to the Contract signed by authorized representatives of both parties;
- (2) a Change Order, including Change Orders signed only by the Owner as described in Subparagraph 7.1(b) and Subparagraph 7.1(e); or
- (3) a written order for a minor change in the Work issued by the Engineer as described in Paragraph 7.3.

The Contract Documents also include bid documents such as the Owner's Instructions to Bidders, sample forms, the Contractor's Bid Proposal and portions of addenda relating to any of these documents, and any other documents, exhibits or attachments specifically enumerated in the Building Construction Services Agreement, but specifically exclude geotechnical and subsurface reports that the Owner may have provided to the Contractor.

##### b) THE CONTRACT

The Contract Documents, as defined in Paragraph 1.1, are expressly incorporated into and made a part of the formal Building Construction Services Agreement between the Owner and the Contractor by reference in this Paragraph and Paragraph 1.1 (which documents are sometimes also referred to collectively in these General Conditions as the "Contract"). The Contract Documents represent the entire and integrated agreement between the Owner and the Contractor and supersede all prior negotiations, representations or agreements, either written or oral. The terms and conditions of the Contract Documents may be changed only by an Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind:

- (1) between the Engineer and Contractor;
- (2) between the Owner and a Subcontractor or Sub-subcontractor; or
- (3) between any persons or entities other than the Owner and Contractor.

The Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of the Engineer's duties.

## **EXHIBIT 1**

**c) THE WORK**

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by the Contractor, or any Subcontractors, Sub-subcontractors, material suppliers, or any other entity for whom the Contractor is responsible, to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

**d) THE PROJECT**

The Project is the total construction more particularly described in the Building Construction Services Agreement, of which the Work performed under the Contract Documents may be the whole or a part of the Project and which may include construction by the Owner or by separate contractors. All references in these General Conditions to or concerning the Work or the site of the Work will use the term "Project," notwithstanding that the Work may only be a part of the Project.

**e) THE DRAWINGS**

The Drawings (also known as the "Plans") are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

**f) THE SPECIFICATIONS**

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, performance of related services, and other technical requirements.

**g) THE PROJECT MANUAL**

The Project Manual is the volume or volumes which contain the bidding requirements, sample forms, General Conditions for Building Construction, special provisions, and Specifications. The Project Manual may be modified by written addendums issued by the Owner during bidding, in which case the written addendums become a part of the Project Manual upon their issuance, unless otherwise indicated by the Owner in writing.

**h) ALTERNATE**

An Alternate is a variation in the Work on which the Owner requires a price separate from the City Building General Conditions Base Bid. If an Alternate is accepted by the Owner, the variation will become a part of the Contract through the execution of a change order or amendment to the Contract and the Base Bid will be adjusted to include the amount quoted. If an alternate is accepted by the Owner, and later deleted prior to any Work under the alternate being performed or materials delivered to the Project site, the Owner will be entitled to a credit in the full value of the alternate as priced in the Contractor's Bid.

**i) BASE BID**

The Base Bid is the price quoted for the Work before Alternates are considered.

**j) HAZARDOUS SUBSTANCE**

The term Hazardous Substance is defined to include the following:

- (1) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophyllite or actinolite, whether friable or non-friable;

## **EXHIBIT 1**

- (2) any polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids;
- (3) radon;
- (4) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste;
- (5) any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;
- (6) any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;
- (7) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and
- (8) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

### **k) OTHER DEFINITIONS**

As used in the Contract Documents, the following additional terms have the following meanings:

- (1) "provide" means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and other expenses to complete in place, ready for operation or use;
- (2) "shall" means the action of the party to which reference is being made is mandatory;
- (3) "as required" means as prescribed in the Contract Documents; and
- (4) "as necessary" means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes, and regulations.

## **1.2 EXECUTION, CORRELATION AND INTENT**

## EXHIBIT 1

- (a) The Building Construction Services Agreement shall be signed by duly authorized representatives of the Owner and Contractor as provided in the Agreement.
- (b) Execution of the Building Construction Services Agreement by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions, including but not limited to subsurface conditions, under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.
- (c) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.
- (d) Organization of the Specifications into divisions, sections, and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.
- (e) Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.
- (f) The Drawings and Specifications are intended to agree with one another, and Work called for by Drawings and not mentioned in Specifications, or vice versa, shall be furnished as if set forth by both. Specifications shall govern materials, methods and quality of work. In the event of a conflict on the Drawings between scale and dimension, figured dimensions shall govern over scale dimensions and large scale drawings shall govern over small scale drawings. Conflict between two or more dimensions applying to a common point shall be referred to the Engineer for final adjustment. If discrepancies or conflicts occur within or between the Drawings and Specifications regarding the Work, or within or between other Contract Documents, the Contractor shall not perform such Work without having obtained a clarification from the Engineer and resolution by the Owner. The Owner's decision as to the appropriate resolution of a conflict or discrepancy shall be final. Should the Drawings or the Specifications disagree within themselves or with each other; the Base Bid will be based on the most expensive combination of quality and quantity of Work indicated.
- (g) Deviations from Contract Documents shall be made only after written approval is obtained from Engineer and Owner, as provided in Article 7.
- (h) The intention of the Contract Documents is to include all materials, labor, tools, equipment, utilities, appliances, accessories, services, transportation, and supervision required to completely perform the fabrication, erection and execution of the Work in its final position.
- (i) The most recently issued Drawing or Specification takes precedence over previous issues of the same Drawing or Specification. In the event of a conflict, the order of precedence of interpretation of the Contract Documents is as follows:
  - (1) Amendments (see Paragraph 7.2 for order of precedence between Amendments);
  - (2) the Building Construction Services Agreement;

## **EXHIBIT 1**

- (3) addenda, with those addenda of later date having precedence over those of an earlier date;
- (4) the Supplementary General Conditions and Special Provisions, if any;
- (5) the General Conditions for Building Construction;
- (6) the Specifications and Drawings.

### **1.3 OWNERSHIP AND USE OF ENGINEER'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

All Drawings, Specifications, and copies thereof furnished by the Engineer are and shall remain the property of the Owner and are, with the exception of the Contract set for each party, to be returned to the Owner upon request at the completion of the Work.

### **1.4 CAPITALIZATION**

Terms capitalized in these General Conditions include those which are:

- (1) specifically defined in these General Conditions (except the terms defined in Subparagraph 1.1(j), which terms are of common grammatical usage and are not normally capitalized);
- (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs, and Clauses;
- (3) the titles of other documents published or used by the Owner as manuals or official policy statements; or
- (4) proper nouns or other words required under standard grammatical rules to be capitalized.

## **ARTICLE 2 THE OWNER**

### **2.1 DEFINITION OF OWNER**

The Owner is the City of Denton, a Texas municipal corporation, and is identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representatives.

### **2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

- (a) The Owner shall furnish the most recent survey describing the physical characteristics, legal limits, utility locations, and a permanent benchmark for the site of the Project. The Owner shall also furnish any environmental site assessments that may have been given to the Owner or conducted for the property upon which the Project is to be constructed. THIS INFORMATION IS FURNISHED TO THE CONTRACTOR ONLY IN ORDER TO MAKE DISCLOSURE OF THIS MATERIAL AND FOR NO OTHER PURPOSE. BY FURNISHING THIS MATERIAL, THE OWNER DOES NOT REPRESENT, WARRANT, OR GUARANTEE ITS ACCURACY EITHER IN WHOLE, IN PART, IMPLICITLY OR EXPLICITLY, OR IN ANY OTHER WAY, AND THE OWNER SHALL HAVE NO LIABILITY FOR THIS MATERIAL.
- (b) Except for permits and fees which are provided for in Subparagraph 3.7(a), the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for

## **EXHIBIT 1**

construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

- (c) Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work. It is incumbent upon the Contractor to identify, establish, and maintain a current schedule of latest dates for submittal and approval, as required in Paragraph 3.10, including when such information or services must be delivered. If Owner delivers the information or services to the Contractor as scheduled and Contractor is not prepared to accept or act on such information or services, then Contractor shall reimburse Owner for all extra costs incurred of holding, storage, or retention, including redeliveries by the Owner to comply with the current schedule.
- (d) Unless otherwise provided in the Contract Documents, the Contractor will be furnished electronic copies of the Drawings and Specifications for bid purposes and one hard copy approved by Building Inspections upon execution of the Contract. Contractor may obtain additional copies by paying the cost of additional printing or reproduction.
- (e) The obligations described above are in addition to other duties and responsibilities of the Owner enumerated in the Contract Documents and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).
- (f) The Owner shall forward all instructions to the Contractor through the Engineer, except for the Owner's Notice to Proceed and the Owner's decision to carry out Work as described in Paragraph 2.4.
- (g) The Owner's employees, agents, and consultants may be present at the Project site during performance of the Work to assist the Engineer in the performance of the Engineer's duties and to verify the Contractor's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, the equipment used in the performance of the Work, and for purpose of verification of Contractor's Applications for Payment.

### **2.3 OWNER'S RIGHT TO STOP THE WORK**

If the Contractor fails to correct any portion of the Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or refuses or fails to carry out all or any part of the Work in accordance with the Contract Documents, the Owner, by written order, may order the Contractor to stop the Work, or any portion of the Work, until the cause for the order has been eliminated. The right of the Owner however, to stop the Work shall not create or imply a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. The rights of the Owner under this Paragraph 2.3 shall be in addition to, and not in restriction of, the Owner's rights under Paragraph 12.2.

### **2.4 OWNER'S RIGHT TO CARRY OUT THE WORK**

If the Contractor fails or refuses to carry out the Work or perform any of the terms, covenants, or obligations of the Contract Documents, and fails or refuses to correct any failure or refusal with diligence and promptness within fourteen (14) days after receipt of notice from the Owner, the Owner may correct the Contractor's failure or refusal or cause such failure or refusal to be corrected, without affecting, superseding, or waiving any other contractual, legal, or equitable remedies the Owner has, including but not limited to the Owner's termination rights under Article 13. In that case, an appropriate Change Order will be issued deducting the Owner's cost of correction, including Engineer's compensation for additional services and expenses made necessary by the failure or refusal of the Contractor from payments then or thereafter due to the Contractor. The cost of correction is subject to verification (but not approval) by the Engineer. If payments then or thereafter

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due the Contractor are not sufficient to cover the cost of correction, the Contractor shall pay the difference to the Owner.

### **2.5 NOTICE TO PROCEED**

After final execution of the Contract and receipt and approval of the required performance and payment bonds and evidence of required insurance, the Owner will issue a written notice to proceed with the Work, including the designated Contract Time within which Substantial Completion of the Work must be achieved. If the Owner unreasonably delays issuance of a written notice to proceed through no fault of the Contractor, the Contractor shall be entitled only to an equitable adjustment of the Contract Time, if properly claimed pursuant to the requirements of Paragraph 4.3; but the Contractor shall not be entitled to any increase to the Contract Sum whatsoever for this reason.

## **ARTICLE 3 THE CONTRACTOR**

### **3.1 DEFINITION OF CONTRACTOR**

The Contractor is the person or business entity identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized employees or representatives.

### **3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR**

(a) The Contractor shall carefully check, study, and compare the Contract Documents with each other and shall at once report to the Engineer in writing any inconsistency, ambiguity, error, omission, conflict, or discrepancy the Contractor may discover. The Contractor shall also verify all dimensions, field measurements, and field conditions before laying out the Work. The Contractor will be held responsible for any subsequent error, omission, conflict, or discrepancy which might have been avoided by the above-described check, study, comparison, and reporting. In the event the Contractor continues to work on an item where an inconsistency, ambiguity, error, omission, conflict, or discrepancy exists without obtaining such clarification or resolution or commences an item of the Work without giving written notice of an error, omission, conflict, or discrepancy that might have been avoided by the check, study, and comparison required above, it shall be deemed that the Contractor bid and intended to execute the more stringent, higher quality, or state of the art requirement, or accepted the condition as is in the Contract Documents, without any increase to the Contract Sum or Contract Time. The Contractor shall also be responsible to correct any failure of component parts to coordinate or fit properly into final position as a result of Contractor's failure to give notice of and obtain a clarification or resolution of any error, omission, conflict, or discrepancy, without any right to any increase to the Contract Sum or Contract Time.

(b) The Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

### **3.3 SUPERVISION AND CONSTRUCTION PROCEDURES**

(a) The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents set forth specific instructions concerning these matters.

(b) The Contractor shall be responsible to the Owner for the acts and omissions of the Contractor's employees, Subcontractors, Sub-subcontractors, and their respective agents and employees, and

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any other persons performing portions of the Work under a subcontract with the Contractor or with any Subcontractor, and all other persons or entities for which the Contractor is legally responsible. All labor shall be performed by mechanics that are trained and skilled in their respective trades. Standards of work required throughout shall be of a quality that will bring only first class results. Mechanics whose work is unsatisfactory, or who are considered careless, incompetent, unskilled, or otherwise objectionable shall be dismissed promptly from the Work and immediately replaced with competent, skilled personnel. Any part of the Work adversely affected by the acts or omissions of incompetent, unskilled, careless, or objectionable personnel shall be immediately corrected by the Contractor.

- (c) The Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Engineer in the Engineer's administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Contractor.
- (d) The Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work. The Contractor's responsibility under this paragraph will not in any way eliminate the Engineer's responsibility to the Owner under the Engineer/Owner Agreement.
- (e) Any Contractor, Subcontractor, Sub-subcontractor, or separate contractor who commences Work over, in, or under any surface prepared by the Owner or by any other contractor, subcontractor, sub-subcontractor or separate contractor without the Contractor having given written notice to the Engineer of the existence of any faulty surface or condition in the surface that prevents achieving the quality of workmanship specified by the Contract Documents and without having obtained the prior approval of the Engineer and the Owner to proceed is deemed to have accepted the surface or condition in the surface as satisfactory at the commencement of such Work. Any unsatisfactory Work subsequently resulting from such a faulty surface or condition in the surface that was not pre-approved by the Engineer or the Owner after notice as provided above may be rejected and replacement required, without any increase to the Contract Sum or Contract Time.
- (f) All grades, lines, levels, and benchmarks shall be established and maintained on an ongoing basis by the Contractor. The Contractor is solely responsible for any errors made in establishing or maintaining proper grades, lines, levels, or benchmarks. Each Contractor for his own Work shall verify all grades, lines, levels, and dimensions as indicated on Drawings. He shall report any errors, omissions, conflicts, or inconsistencies to Engineer before commencing any Work affected by these conditions. Contractor shall establish and safeguard benchmarks in at least two widely separated places and, as Work progresses, establish benchmarks at each level and lay out partitions on rough floor in exact locations as guides to all trades. The Contractor shall, from the permanent benchmark provided by the Owner, establish and maintain adequate horizontal and vertical control.

### 3.4 LABOR AND MATERIALS

- (a) Except as is otherwise specifically provided in the Contract Documents as being the responsibility of the Owner, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other

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facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

- (b) The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.
- (c) The Contractor shall give preference, when qualified labor is available to perform the Work to which the employment relates, to all labor hired for the Project in the following order:
  - (1) to bona fide residents of the City of Denton, Texas;
  - (2) to bona fide residents of the County of Denton, Texas;
  - (3) to bona fide residents of the State of Texas;
  - (4) to bona fide residents of the United States.

### 3.5 WARRANTY

- (a) General Warranty. The Contractor warrants to the Owner that all Work shall be accomplished in a good and workmanlike manner and that all materials and equipment furnished under the Contract will be of good quality, new (unless otherwise specified), and free from faults or defects, and that the Work will otherwise conform to the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, will be considered defective or nonconforming. The Contractor's warranty excludes any remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The commencement date, duration, and other conditions related to the scope of this general warranty are established in Subparagraphs 9.9 (a) and 12.2(b) of these General Conditions. THE GENERAL WARRANTY PROVIDED IN THIS SUBPARAGRAPH IS IN ADDITION TO AND DOES NOT LIMIT OR DISCLAIM ANY OTHER WARRANTY OR REMEDY REQUIRED OR PROVIDED BY LAW OR THE CONTRACT DOCUMENTS AND SUCH WARRANTY SHALL REQUIRE THE CONTRACTOR TO REPLACE DEFECTIVE MATERIALS AND RE-EXECUTE DEFECTIVE WORK THAT IS DISCLOSED BY THE OWNER TO THE CONTRACTOR WITHIN A PERIOD OF ONE (1) YEAR AFTER SUBSTANTIAL COMPLETION OF THE ENTIRE WORK OR, IF A LATENT DEFECT, WITHIN ONE (1) YEAR AFTER DISCOVERY BY THE OWNER OF THE LATENT DEFECT.
- (b) Special Warranties. The Contractor shall assign to the Owner in writing, as a condition precedent to final payment, the terms and conditions of all special warranties required under the Contract Documents.

### 3.6 TAXES

The Owner qualifies for exemption from state and local sales and use taxes, pursuant to the provisions of Section 151.309 of the Texas Tax Code, as amended. Therefore, the Owner shall not be liable for, or pay the Contractor's cost of, such sales and use taxes which would otherwise be payable in connection with the purchase of tangible personal property furnished and incorporated into the real property being improved under the Contract Documents or the purchase of materials, supplies and other tangible personal property, other than machinery or equipment and its accessories

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and repair and replacement parts, necessary and essential for performance of the Contract which is to be completely consumed at the job site. The Contractor shall issue an exemption certificate in lieu of the tax on such purchases.

### **3.7 PERMITS, FEES AND NOTICES**

- (a) The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of governmental entities or agencies applying to performance of the Work.
- (b) Except as provided in Subparagraph (d) below, it is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, ordinances, construction codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance with applicable laws, ordinances, construction codes, rules or regulations, the Contractor shall promptly notify the Engineer and the Owner in writing, and necessary changes shall be accomplished by appropriate Amendment.
- (c) If the Contractor performs Work knowing it to be contrary to laws, ordinances, construction codes, or rules and regulations without notifying the Engineer and the Owner, the Contractor shall assume full responsibility for the Work and shall bear the attributable costs of the correction of the Work and any other Work in place that may be adversely affected by the corrective work.

### **3.8 ALLOWANCES**

- (a) The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for the amounts identified in the Contract and by persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection.
- (b) Unless otherwise provided in the Contract Documents:
  - (1) materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;
  - (2) the amount of each allowance shall cover the cost to the Contractor of materials and equipment delivered at the site less all exempted taxes and applicable trade discounts;
  - (3) the amount of each allowance includes the Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance Work;
  - (4) whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect:
    - (i) the difference between actual costs and the allowances under Clause (b) (2); and
    - (ii) changes in Contractor's costs under Clause (b) (3);
  - (5) the Owner retains the right to review and approve Subcontractors selected by the Contractor to perform work activities covered by allowances.

### **3.9 SUPERINTENDENT (PROJECT MANAGER-ONSITE SUPERVISOR)**

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The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Owner reserves the right to request that the Contractor replace its superintendent at any time and the Contractor will replace said superintendent at the Owner's direction.

### 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

(a) The Contractor shall, immediately after award of the Contract and before submittal of the first Application for Payment, prepare and submit the construction schedule for the Engineer's and Owner's information, review, and approval in accordance with the following provisions:

(1) Unless otherwise approved in writing by the Owner, the construction schedule shall not exceed the Contract Time limits currently in effect under the Contract Documents and shall provide for expeditious and practicable execution of the Work.

(2) The construction schedule shall include all shop drawing and submittal data requirements, indicating for each:

(i) the latest date to be submitted by the Contractor; and

(ii) the latest date for approval by the Engineer.

(3) The construction schedule shall be in the form of a critical path management schedule, and shall indicate each critical task (the "predecessor") of all the major construction activities of the Work in a logical and sequential order (the "project network") which requires completion prior to commencement of the task next following (the "successor"). Each task shall be identified with:

(i) actual work time, exclusive of slack time, for accomplishment;

(ii) the latest start date;

(iii) the latest finish date;

(iv) the amount of float associated with each task;

(v) the amount of labor, material, and equipment associated with each task; and

(vi) the percentage of completion as of the date of the current schedule.

(4) The construction schedule shall be revised and updated monthly to reflect the actual status of the Work and shall be submitted with each Application for Payment.

(5) On or before the first day of each month, following the date of commencement of the Work as stated in the notice to proceed, the Contractor shall prepare and submit to the Engineer and the Owner an up-to-date status report of the progress of the various construction phases of the Work in the form of an updated construction schedule. This status report shall consist of a time scale drawing indicating actual progress of the various phases of the Work and the percentage of completion of the entire Work. The original construction schedule shall be updated or changed to indicate any adjustments to the Contract Time granted by the Owner.

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The updated schedule must be submitted with the Contractor's Application for Payment. No application will be certified without a satisfactory update to the construction schedule.

- (6) The construction schedule will also be revised to show the effect of change orders and other events on Contract Time. No request for an increase in Contract Time will be considered unless it is accompanied by a schedule revision demonstrating the amount of time related to the cause of the request. If the Contractor's status schedules reflect that the Contractor has fallen behind the pace required to complete the Work within the Contract Time, through no fault of the Owner, the Contractor shall prepare a recovery schedule demonstrating how it intends to bring its progress back within the Contract Time. This recovery schedule shall be in a form acceptable to the Owner.
- (7) Costs incurred by the Contractor in preparing and maintaining the required construction schedule, any updated schedule, and any recovery schedule required by the Owner will not be paid as an additional or extra cost and shall be included in the Contract Sum.
- (8) The Contract Sum is deemed to be based upon a construction schedule requiring the full Contract Time. NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE ALLOWED AS A RESULT OF THE CONTRACTOR BASING HIS BID ON AN EARLY COMPLETION SCHEDULE, OR AS A RESULT OF DELAYS AND COSTS ATTRIBUTABLE TO COMPLETION LATER THAN THE PLANNED EARLY COMPLETION DATE.
  - (b) The Contractor shall also prepare and keep current, for the Engineer's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Engineer reasonable time to review submittals.
  - (c) The Contractor shall conform to the most recent schedules approved as to form by the Engineer and the Owner. Any subsequent revisions made by the Contractor to schedules in effect shall conform to the provisions of Subparagraph 3.10(a)
  - (d) If the Work falls behind the approved construction schedule, the Contractor shall take such steps as may be necessary to improve his progress, and the Engineer and the Owner may require him to increase the number of shifts, overtime operations, days of work, or the amount of construction plant, and to submit for approval revised schedules in the form required above in order to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Owner.

### **3.11 DOCUMENTS AND SAMPLES AT THE PROJECT SITE**

The Contractor shall maintain at the Project site for the Owner one record copy of the Drawings, Specifications, addenda, and Amendments in good order and marked currently to record changes and selections made during construction, and in addition shall maintain at the Project site approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be available to the Engineer and shall be delivered to the Engineer for submittal to the Owner upon completion of the Work.

### **3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

- (a) Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

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- (b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- (c) Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.
- (d) Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Engineer is subject to the limitations of Paragraph 4.2.
- (e) The Contractor shall review, approve and submit to the Engineer Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.
- (f) The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Engineer. Work requiring this submittal and review shall be in accordance with approved submittals and any identified exceptions noted by the Engineer.
- (g) By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and related field construction criteria, or will do so, and has checked and coordinated the information contained within submittals with the requirements of the Work and of the Contract Documents. The Contractor's attention is directed to Paragraph 3.2 of these General Conditions and the requirements stated in that Paragraph.
- (h) The Contractor shall not be relieved of responsibility for deviations, substitutions, changes, additions, deletions or omissions from requirements of the Contract Documents by the Engineer's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Contractor has specifically informed the Engineer in writing of such substitutions, changes, additions, deletions, omissions, or deviations involved in the submittal at the time of submittal and the Engineer, subject to a formal Change Order signed by the Owner, Engineer and Contractor, has given written approval to the specific substitutions, changes, additions, deletions, omissions, or deviations. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Engineer's approval thereof. Further, notwithstanding any approval of a submittal by the Engineer, the Contractor shall be responsible for all associated Project costs, including costs of coordination's, modifications, or impacts, direct or indirect, resulting from any and all substitutions, changes, additions, deletions, omissions, or deviations, whether or not specifically identified by the Contractor to the Engineer at the time of the above-mentioned submittals, including additional consulting fees, if any, in any and all accommodations associated with such substitutions, changes, additions, deletions, omissions, or deviations to the requirements of the Contract Documents.
- (i) The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to additional revisions other than those requested by the Engineer on previous submittals. In the absence of such written notice, the Engineer's approval of a resubmission shall not apply to the additional revisions not requested.
- (j) Informational submittals upon which the Engineer is not expected to take responsive action may be so identified in the Contract Documents.

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- (k) When professional certification of performance criteria of materials, systems, or equipment is required by the Contract Documents, the Engineer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

### 3.13 USE OF THE PROJECT SITE

The Contractor shall confine operations at the Project site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the Project site with materials or equipment.

### 3.14 CLEANING UP

(a) The Contractor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Upon the completion of the Work the Contractor shall remove from and about the Project site all waste materials, and rubbish, and all of the Contractor's tools, construction equipment, machinery, and surplus materials.

(b) If the Contractor fails to clean up as provided in the Contract Documents, the Owner may clean up and the Owner's cost of cleaning up shall be charged to the Contractor.

### 3.15 ACCESS TO WORK

The Contractor shall provide the Owner and the Engineer access to the Work in preparation and progress wherever located during the course of construction.

### 3.16 TESTS AND INSPECTIONS

- (a) Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of governmental entities or agencies having jurisdiction over the Work shall be made at appropriate times. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner or with the appropriate governmental entity or agency, and the Contractor shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Engineer timely notice of when and where tests and inspections are to be made so the Engineer may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals which become requirements after bids or proposals are received.
- (b) If the Engineer, the Owner or other public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 3.17(a), the Engineer will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Engineer of when and where tests and inspections are to be made so that the Engineer may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 3.17(c).
- (c) If procedures for testing, inspection, or approval under Subparagraphs 3.17(a) and 3.17(b) reveal deficiencies or nonconformities in the Work, the Contractor shall bear all costs made necessary to correct the deficiencies or nonconformities, including those of repeated procedures and compensation for the Engineer's services and expenses, if any. The Contractor shall bear the costs of any subsequent testing, inspection, or approval of the corrected Work.

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- (d) Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

### 3.17 ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. CONTRACTOR SHALL COMPLETELY DEFEND, INDEMNIFY AND HOLD OWNER AND ENGINEER HARMLESS FROM ANY AND ALL SUITS OR CLAIMS FOR INFRINGEMENT OF PATENT RIGHTS, REGARDLESS OF WHETHER OR NOT THE OWNER OR THE ENGINEER SPECIFIED A PARTICULAR DESIGN, PROCESS OR PRODUCT IN THE CONTRACT DOCUMENTS THAT MAY BE THE SUBJECT OF A PATENT INFRINGEMENT OR OTHERWISE ACTIVELY INDUCED OR CONTRIBUTED TO THE INFRINGEMENT. In the event the Contractor has reason to believe that a particular design, process or product specified infringes a patent, the Contractor shall immediately notify the Owner and the Engineer of same.

### 3.18 INDEMNIFICATION

- (a) THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE OWNER, ITS OFFICERS, AGENTS AND EMPLOYEES, AND THE ENGINEER, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, OR OF THE ENGINEER, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF THE CONTRACTOR, THE OWNER, AND THE ENGINEER, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.
- (b) In claims against any person or entity indemnified under this Paragraph 3.19 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.19 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers compensation acts, disability benefit acts or other employee benefit acts.

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- (c) Indemnification under this Paragraph 3.19 shall include, but is not limited to, liability which could result to or be created for the Owner, its officers, agents, or employees, or the Engineer pursuant to State or Federal laws or regulations relating to pollution of the environment and State or Federal laws or regulations relating to the occupational safety and health of workers. The Contractor specifically agrees to comply with the above-mentioned laws and regulations in the performance of the Work by the Contractor and that the obligations of the Owner, its officers, agents, and employees, and the Engineer under the above-mentioned laws and regulations are secondary to those of the Contractor.

### ARTICLE 4 CONTRACT ADMINISTRATION

#### 4.1 THE DESIGN PROFESSIONAL (ENGINEER)

- (a) The design professional is the person lawfully licensed to practice architecture or engineering or a firm or other business entity lawfully practicing architecture/engineering identified as such in the formal Building Construction Services Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Engineer" means the Engineer or the Engineer's authorized representative. The Owner may, at its option, designate a qualified Owner representative to serve as the Engineer on the Project instead of an outside firm or person. In such event, the references in these General Conditions that refer to the Engineer shall apply to the Owner-designated Engineer representative and the Owner-designated Engineer representative shall be accorded that same status by the Contractor.
- (b) In the event the Engineer is an outside person or firm and the Engineer's employment is terminated, the Owner may, at its option, contract with a new outside Engineer to replace the former, or may designate a qualified Owner representative to serve as the Engineer. The replacement Engineer, whether an Owner representative, an independent Engineer or any other qualified person or entity, shall be regarded as the Engineer for all purposes under the Contract Documents and shall be accorded that same status by the Contractor. Any dispute in connection with such appointment shall be reviewed and settled by the Owner, whose decision shall be final and binding.
- (c) Owner reserves the right to appoint a representative empowered to act for the Owner during the Construction Phase and to supersede the Engineer's Construction Phase responsibility. Similarly, from time to time the Owner may expand or reduce the Owner's delegation of powers to the Engineer, with the Owner notifying the Contractor of any such changes. The Engineer shall not be construed as a third party beneficiary to the Contract and can in no way object to any expansion or reduction of powers as set forth in this Subparagraph (c). In no event, however, shall the Owner have control over charge of, or be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs in connection with the Work since these are solely the Contractor's responsibility. The Owner will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for acts or omissions of Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

#### 4.2 CLAIMS AND DISPUTES

- (a) Definition; General Notice of Claim Procedure. As used in these General Conditions, a "Claim" means a demand or assertion by one of the parties to the Contract seeking an adjustment of the terms of the Contract Documents, of the Contract Sum, of the Contract Time, or some other relief in respect to the terms of the Contract Documents. The term also includes all other disputes

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between the Owner and the Contractor arising out of or relating to the Project or the Contract Documents, including but not limited to claims that work was outside the scope of the Contract Documents. The responsibility to substantiate the Claim and the burden of demonstrating compliance with this provision shall rest with the party making the Claim. Except where otherwise provided in the Contract Documents, a Claim by the Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, MUST BE MADE BY WRITTEN NOTICE TO THE ENGINEER AND THE OWNER WITHIN FOURTEEN (14) DAYS AFTER OCCURRENCE OF THE EVENT OR EVENTS GIVING RISE TO THE PARTICULAR CLAIM. Every Claim of the Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind the Contractor by his signature) of the Contractor, verifying the truth and accuracy of the Claim. THE CONTRACTOR SHALL BE DEEMED TO HAVE WAIVED ANY CLAIM NOT MADE STRICTLY IN ACCORDANCE WITH THE PROCEDURE AND TIME LIMITS SET OUT IN THIS PARAGRAPH.

- (b) Referral to the Engineer. Claims, disputes, and other matters in question between the Contractor and the Owner relating to the progress or execution of the Work or the interpretation of the Contract Documents shall be referred to the Engineer for recommendation to the Owner, which recommendation the Engineer will furnish in writing within a reasonable time, provided proper and adequate substantiation has been received. Failure of the Contractor to submit the Claim to the Engineer for rendering of a recommendation to the Owner shall constitute a waiver of the Claim.
- (c) Continuing Contract Performance. Pending final resolution of a claim the Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make payments in accordance with the Contract Documents.
- (d) Claims for Concealed or Unknown Conditions. No adjustment in the Contract Sum or Time associated with concealed or unknown conditions will normally be considered or allowed; provided, however, that the Contract Sum or Time may be adjusted by the Owner in such circumstances only if:
  - (1) a concealed subsurface condition is encountered in the course of performance of the Work;
  - (2) a concealed or unknown condition in an existing structure is at variance with conditions indicated by the Contract Documents; or
  - (3) an unknown physical condition is encountered below the surface of the ground or in an existing structure which is of an unusual nature and materially different from those ordinarily encountered and generally recognized as inherent in the character of the Work; and
  - (4) a notice of claim with proper and adequate substantiation is presented pursuant to Subparagraph 4.3(a) of these General Conditions; and
  - (5) the Owner and the Engineer determine that:
    - (i) prior to submitting its bid for the Work, the Contractor used reasonable diligence to fully inspect the portion of the Project site where the condition was discovered; and
    - (ii) the work caused or required by the concealed or unknown condition at issue can be considered extra work to the extent that additional new Drawings must be prepared and issued and new construction beyond the scope of the Contract Documents is required.

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- (e) Disclaimer of Warranties as to Reports, Drawings, and Specifications. PROJECT SITE INFORMATION AND REPORTS (INCLUDING BUT NOT LIMITED TO SOILS TESTING REPORTS, GEOTECHNICAL REPORTS, OR ENVIRONMENTAL SITE ASSESSMENTS) PROVIDED BY THE OWNER AND THE ENGINEER IN THE PROJECT MANUAL OR BY OTHER MEANS SHALL BE UTILIZED BY THE CONTRACTOR AT THE CONTRACTOR'S OWN RISK. THE OWNER AND THE ENGINEER DO NOT GUARANTEE OR WARRANT ANY INFORMATION SHOWN IN THE PROJECT SITE INFORMATION AND REPORTS.
- (f) Claims for Additional Cost. If the Contractor wishes to make a claim for an increase in the Contract Sum, written notice as provided in this Paragraph 4.3 shall be given before proceeding to execute the Work. Prior notice is not required for claims relating to an emergency endangering life or property arising under Paragraph 10.3. In addition, the Contractor's request for an increase in the Contract Sum for any reason (other than work performed under emergency conditions) shall be made far enough in advance of required work to allow the Owner and the Engineer a sufficient amount of time, without adversely affecting the construction schedule, to review the request, prepare and distribute such additional documents as may be necessary to obtain suitable estimates or proposals and to negotiate, execute and distribute a Change Order for the required work if the Contractor believes that additional cost is involved for reasons including but not limited to:
- (1) a written interpretation from the Engineer;
  - (2) a written order for a minor change in the Work issued by the Engineer;
  - (3) failure of payment by the Owner;
  - (4) termination of the Contract by the Owner;
  - (5) the Owner's temporary suspension of all or any portion of the Work where the Contractor was not at fault; or
  - (6) other reasonable grounds.
- (g) Injury or Damage to Person or Property. If the Contractor suffers injury or damages to person or property because of an act or omission of the Owner, or of any of the Owner's officers, employees or agents, written, sworn-to notice of any claim for damages or injury shall be given as provided in Subparagraph 4.3(a). The notice shall provide sufficient detail to enable the Engineer and the Owner to investigate the matter.
- (h) Subcontractor Pass-Through Claims. In the event that any Subcontractor of the Contractor asserts a claim to the Contractor that the Contractor seeks to pass through to the Owner under the Contract Documents, any entitlement of the Contractor to submit and assert the claim against the Owner shall be subject to:
- (1) the requirements of Paragraph 4.3 of these General Conditions; and

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- (2) the following additional three requirements listed below, all three of which additional requirements shall be conditions precedent to the entitlement of the Contractor to seek and assert such claim against the Owner:
- (ii) The Contractor shall either (A) have direct legal liability as a matter of contract, common law, or statutory law to the Subcontractor for the claim that the Subcontractor is asserting or (B) the Contractor shall have entered into a written liquidating agreement with the Subcontractor, under which agreement the Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such claim against the Owner under the Contract and for paying to the Subcontractor any amount that may be recovered, less Contractor's included markup (subject to the limits in the Contract Documents for any markup). The liability or responsibilities shall be identified in writing by the Contractor to the Owner at the time such claim is submitted to Owner, and a copy of any liquidating agreement shall be included by the Contractor in the claim submittal materials.
  - (ii) The Contractor shall have reviewed the claim of the Subcontractor prior to its submittal to Owner and shall have independently evaluated such claim in good faith to determine the extent to which the claim is believed in good faith to be valid. The Contractor shall also certify, in writing and under oath to the Owner, at the time of the submittal of such claim, that the Contractor has made a review, evaluation, and determination that the claim is made in good faith and is believed to be valid.
  - (iii) The Subcontractor making the claim to the Contractor shall certify in writing and under oath that it has compiled, reviewed and evaluated the merits of such claim and that the claim is believed in good faith by the Subcontractor to be valid. A copy of the certification by the Subcontractor shall be included by Contractor in the claim submittal materials.
- (3) Any failure of the Contractor to comply with any of the foregoing requirements and conditions precedent with regard to any such claim shall constitute a waiver of any entitlement to submit or pursue such claim.
- (4) Receipt and review of a claim by the Owner under this Subparagraph shall not be construed as a waiver of any defenses to the claim available to the Owner under the Contract Documents or law.
- (i) Owner's Right to Order Acceleration and to Deny Claimed and Appropriate Time Extensions, in Whole or in Part. The Contractor acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner. The following provisions, therefore, will apply:
    - (1) If the Contractor falls behind the approved construction schedule for whatever reason, the Owner shall have the right, in the Owner's sole discretion, to order the Contractor to develop a recovery schedule as described in Paragraph 3.10 or to accelerate its progress in such a manner as to achieve Substantial Completion on or before the Contract Time completion date or such other date as the Owner may reasonably direct and, upon receipt, the Contractor shall take all action necessary to comply with the order. In such event, any possible right, if any, of the Contractor to additional compensation for any acceleration shall be subject to the terms of this Subparagraph (i).

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- (2) In the event that the Contractor is otherwise entitled to an extension of Contract Time and has properly initiated a Claim for a time extension in accordance with Subparagraph 4.3(a) above, the Owner shall have the right, in the Owner's sole discretion, to deny all, or any part, of the Claim for extension of Contract Time by giving written notice to the Contractor provided within fourteen (14) days after receipt of the Contractor's Claim. If the Owner denies the Contractor's claim for an extension of Contract Time under this Clause (i)(2), either in whole or in part, the Contractor shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Completion Date.
- (3) If the Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents, for an amount of time that would have justified approval by the Owner if not for the need and right to accelerate, the Contractor may initiate a Claim for acceleration costs pursuant to Subparagraph 4.3(a). Any resulting Claim for acceleration costs properly initiated by the Contractor under Subparagraph 4.3(a) above shall be limited to those reasonable and documented direct costs of labor, materials, equipment, and supervision solely and directly attributable to the actual acceleration activity necessary to bring the Work back within the then existing approved construction schedule. These direct costs include the premium portion of overtime pay, additional crew, shift, or equipment costs if requested in advance by the Contractor and approved in writing by the Owner. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance, not to exceed 5%, will be allowed on the claimed acceleration costs. NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING BUT NOT LIMITED TO HOME OFFICE OVERHEAD) OR ANY OTHER COSTS WILL BE ALLOWED ON ANY ACCELERATION CLAIM. The Owner shall not be liable for any costs related to an acceleration claim other than those described in this Clause (i) (3).
- (i) Waiver of Claims; Final Payment. The making of final payment shall constitute a waiver of claims by the Owner except those arising from:
- (1) claims, security interests, purported liens, or other attempted encumbrances arising out of the Contract and remaining unsettled;
  - (2) defective or nonconforming Work appearing after Substantial Completion;
  - (3) latent defects, as defined in Subparagraph 12.2(d), appearing after Final Completion; or
  - (4) the terms of general and special warranties required by the Contract Documents or allowed or implied by law.
- (k) THE CONTRACTOR SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES AS A PART OF ANY CLAIM MADE UNDER THE CONTRACT DOCUMENTS OR IN ANY SUBSEQUENT LAWSUIT OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING.
- (l) No Waiver of Governmental Immunity. NOTHING IN THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO WAIVE THE OWNER'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY STATE LAW.

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### **ARTICLE 5 SUBCONTRACTORS**

#### **5.1 DEFINITIONS OF SUBCONTRACTOR**

- (a) A Subcontractor is person or entity who has a direct contract with the Contractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Contractor by purchase or lease for use in performance of or incorporation into the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.
  
- (b) A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Subcontractor or another Sub-subcontractor by purchase or lease for use in performance of or incorporation into the Work. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

#### **5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

- (a) Immediately after the award of the Contract by the Owner, and before the Building Construction Services Agreement is signed by the Contractor and the Owner, the Contractor shall furnish to the Engineer in writing, for acceptance by the Owner and the Engineer, a list of the names, addresses, telephone numbers, M/WBE certification numbers (where applicable), and type of work of the Subcontractors (including those who are to furnish materials or equipment fabricated to a special design), proposed for the principal portions of the Work, including furnishings when made a part of the Contract. The Contractor shall immediately notify the Owner in writing of any changes in the list as they occur. The Engineer will promptly reply to the Contractor in writing stating whether or not the Owner or the Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Engineer to reply promptly shall constitute notice of no reasonable objection.
  
- (b) The Contractor shall not contract with a proposed person or entity to whom the Owner or Engineer has made reasonable and timely objection.
  
- (c) Engineer's and Owner's approval of or objection to any Subcontractor or of a particular process or material will not relieve the Contractor of his responsibility for performance of Work as called for under the Contract Documents, and shall not provide a basis for any claim for additional time or money on the part of the Contractor. Approval shall not be construed to create any contractual relationship between the Subcontractor and either the Owner or Engineer. In no event shall the Contract Sum be increased as a result of the rejection of any Subcontractor.
  
- (d) The Contractor shall not change a Subcontractor previously selected if the Owner or Engineer makes reasonable objection to such change.

#### **5.3 SUBCONTRACTUAL RELATIONS**

- (a) By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents (including but not limited to

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these General Conditions), and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by the Contract Documents, assumes toward the Owner and the Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and the Engineer under the Contract Documents (including but not limited to these General Conditions) with respect to the Work to be performed by the Subcontractor so that subcontracting will not prejudice the rights of the Owner and the Engineer. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor is to be bound. Subcontractors shall similarly make copies of applicable portions of such Documents available to their respective proposed Sub-subcontractors.

- (b) The Contractor is solely responsible for making payments properly to the Contractor's Subcontractors on the Project. During performance of the Work, the Contractor shall comply with the following additional rules regarding Subcontractor payments:
- (1) The Contractor shall submit, beginning with the Second Application and Certificate for Payment, a Subcontractor Payment Report (the "Report") with each Application and Certificate for Payment. The Report shall show all payments made to date by the Contractor (plus existing retainage) to each Subcontractor involved in the Project. The Report shall be made on a form approved and supplied by the Owner. As an alternative to the Report, the Contractor may furnish Affidavits of Payment Received with the Application and Certificate for Payment, which affidavits shall be executed by each Subcontractor owed money and paid during the previous progress payment period for work or materials furnished on the Project. RECEIPT BY THE OWNER OF THE REPORT OR AFFIDAVITS OF PAYMENT RECEIVED SHALL BE A CONDITION PRECEDENT TO PAYMENT ON ANY APPLICATION.
  - (2) If, for any reason, the Contractor is withholding payment to a Subcontractor due to a dispute or other problem with performance, the Contractor shall note the amount withheld and that payment is in dispute. The Owner may require the Contractor to document and verify the dispute or other problem in question.
  - (3) The Owner reserves the right in its sole discretion, to withhold payment to the Contractor pursuant to Paragraph 9.5(a) of the General Conditions, should it appear from the Report, statements of payment received or other information furnished to the Owner that:
    - (i) the Report has not been properly completed;
    - (ii) the Contractor has knowingly provided false information regarding payment of any Subcontractor; or
    - (iii) the Contractor has otherwise failed to make payments properly to any Subcontractor.
  - (4) THE CONTRACTOR SHALL NOT HAVE ANY RIGHT TO MAKE A CLAIM FOR ADDITIONAL TIME OR ADDITIONAL COMPENSATION AS A RESULT OF THE OWNER'S OR ENGINEER'S ENFORCEMENT OF THIS SUBPARAGRAPH 5.3(b). NO PROVISION OF THIS SUBPARAGRAPH OR ANY OF THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO CREATE A CONTRACTUAL RELATIONSHIP, EXPRESS OR IMPLIED, BETWEEN ANY SUBCONTRACTOR AND EITHER THE

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OWNER OR THE ENGINEER AND SHALL NOT BE CONSTRUED TO MAKE ANY SUBCONTRACTOR OR ANY OTHER PERSON OR ENTITY A THIRD PARTY BENEFICIARY OF THE CONTRACT BETWEEN THE OWNER AND THE CONTRACTOR.

### **5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS**

In the event of a termination of this Contract by the Owner under Article 14, the Contractor shall, if requested in writing by the Owner, within fifteen (15) days after the date notice of termination is sent, deliver and assign to Owner, or any person or entity acting on the Owner's behalf, any or all subcontracts made by Contractor in the performance of the Work, and deliver to the Owner true and correct originals and copies of the subcontract documents. In the event assignment is not requested by the Owner, Contractor shall terminate all subcontracts to the extent that Owner has not directed assignment of same and to the extent that they relate to the performance of Work terminated by the notice of termination.

## **ARTICLE 6 CONSTRUCTION BY THE OWNER/ SEPARATE CONTRACTORS**

### **6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS**

- (a) The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project site under Conditions of the Contract identical or substantially similar to these General Conditions, including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make a claim as provided elsewhere in and in accordance with the Contract Documents.
- (b) When separate contracts are awarded for different portions of the Project or other construction or operations on the Project site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Building Construction Services Agreement with the Owner.
- (c) The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall, with the approval of the Owner, make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors, and the Owner until subsequently revised by mutual agreement or by written Change Order. If the Contractor believes it is entitled to an adjustment of the Contract Sum under the circumstances, the Contractor shall submit a written proposal for a Change Order pursuant to Article 7 of the General Conditions. In the event the Contractor's Change Order proposal is denied by the Owner, the Contractor must submit any Claim pursuant to Paragraph 4.3 of the General Conditions.
- (d) Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under these General Conditions, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11 and 12.

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### 6.2 MUTUAL RESPONSIBILITY

- (a) The Contractor shall afford the Owner and separate contractors' reasonable opportunity for access to and storage of their materials and equipment and the performance of their activities and shall coordinate the Contractor's construction and operations with the separate contractors as required by the Contract Documents.
- (b) If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Engineer apparent discrepancies or defects in the other construction that would render it unsuitable for proper execution and results. Failure of the Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.
- (c) The Owner shall not be liable to the Contractor for damages suffered by the Contractor due to the fault or negligence of a separate contractor or through failure of a separate contractor to carry out the directions of the Owner or the Engineer. Should any interference occur between the Contractor and a separate contractor, the Engineer or the Owner may furnish the Contractor with written instructions designating priority of effort or change in methods, whereupon the Contractor shall immediately comply with such direction. In such event, the Contractor shall be entitled to an extension of the Contract Time only for unavoidable delays verified by the Engineer; no increase in the Contract Sum, however, shall be due to the Contractor.
- (d) The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2(e).
- (e) Should the Contractor cause damage to the work or property of any separate contractor on the Project, the Contractor shall, upon due notice, settle with the separate contractor by agreement, if the separate contractor will so settle. If the separate contractor sues the Owner or submits a claim on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor who shall defend such proceedings, at the Contractor's expense, and if any judgment or award against the Owner arises from the separate contractor's claim, the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorney's fees and costs which the Owner has incurred.
- (f) The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Paragraph 3.14.

### 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the Project site and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Engineer recommends to be just.

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### ARTICLE 7 AMENDMENTS

#### 7.1 CHANGE ORDERS

- (a) A Change Order is a written order to the Contractor, signed by the Owner and the Engineer, issued after execution of the Contract, authorizing a change in the Work, an adjustment in the Contract Sum, or an adjustment to the Contract Time, consistent with other applicable provisions of this Contract. The Owner, without invalidating the Contract and without requiring notice of any kind to the sureties, may order changes to the scope of Work under the Contract by additions, deletions, or other revisions, the Contract Sum and Contract Time to be adjusted consistent with other applicable provisions of this Contract. All Change Orders shall be executed on a Change Order form approved by the Owner and the Owner's City Attorney.
- (b) In addition to the Owner and the Engineer, the Contractor shall sign all Change Orders to verify and confirm the terms and conditions established by Change Order; however, should the Contractor refuse to sign a Change Order, this shall not relieve him of his obligation to perform the change directed by the Owner and the Engineer to the best of his ability in accordance with the provisions of this Article 7. A Change Order signed by the Contractor indicates his agreement with all of the changes approved, including the adjustment in the Contract Sum or the Contract Time. EACH CHANGE ORDER SHALL BE SPECIFIC AND FINAL AS TO PRICES AND EXTENSIONS OF TIME, WITH NO RESERVATIONS OR OTHER PROVISIONS ALLOWING FOR FUTURE ADDITIONAL MONEY OR TIME AS A RESULT OF THE PARTICULAR CHANGES IDENTIFIED AND FULLY COMPENSATED IN THE CHANGE ORDER. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work. The Contractor forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release applies to claims related to the cumulative impact of all Change Orders and to any claim related to the effect of a change on other Work.
- (c) No extra work (except under emergency conditions) or changes shall be made nor shall any substitutions, changes or additions to or omissions or deviations from the requirements of the Drawings and Specifications be made unless pursuant to a written Change Order signed by the Owner and the Engineer, it being expressly understood that the Owner shall not be liable for the cost of extra work or any substitution, change, addition, omission or deviation from the requirements of the Drawings or Specifications unless the same shall have been authorized in writing by the Owner and the Engineer in a written change order or other Amendment. The provisions of this Paragraph 7.1 shall control in the event of any inconsistency between such provisions and the other provisions of this Article 7. See Subparagraph 10.3(a) of the General Conditions for Change Orders under emergency conditions.
- (d) The method of determining the cost or credit to the Owner for any change in the Work shall be one of the following:
- (1) mutual acceptance of a not-to-exceed lump sum amount properly itemized and supported by sufficient substantiating data to permit evaluation;
  - (2) unit prices stated in the Contract Documents or subsequently agreed upon;

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- (3) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- (4) the force account method provided in Subparagraph 7.1(e)
- (e) If the parties cannot agree to one of the methods of calculating cost provided in Clauses (d) (1), (d) (2), or (d) (3), or if the parties agree to a method but cannot agree to a final dollar figure, or if the Contractor for whatever reason refuses to sign the Change Order in question, the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of the Work involved shall then be calculated on the basis of the reasonable jobsite expenditures and savings of those performing the Work attributable to the changes, including a reasonable allowance for overhead and profit, such allowance in any case never to exceed 15%. In such case, the Contractor shall keep an itemized accounting of the Work involved, on a daily basis, in such form and with the appropriate supporting data as the Engineer and Owner may prescribe. Sworn copies of the itemized accounting shall be delivered to the Engineer each day during the performance of force account work, with copies to the Owner.

FAILURE OF THE CONTRACTOR TO SUBMIT THE SWORN-TO ITEMIZED ACCOUNTING DAILY AS REQUIRED HEREIN SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY RIGHT TO DISPUTE THE OWNER'S DETERMINATION OF THE AMOUNT DUE THE CONTRACTOR FOR FORCE ACCOUNT WORK. Costs to be charged under this Subparagraph for force account work are limited to the following:

- (1) costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers compensation insurance;
  - (2) costs of materials, supplies and equipment (but not to include off-site storage unless approved in writing by the Owner), whether incorporated or consumed;
  - (3) rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
  - (4) costs of premiums for all bonds and insurance related to the Work; and
  - (5) additional costs of supervision and field office personnel directly attributable to the changed Work. Pending final determination of cost to the Owner, payment of undisputed amounts on force account shall be included on the Engineer's Certificate of Payment as work is completed.
- (f) The amount of credit to be allowed to the Owner for any deletion of Work or any other change which results in a net decrease of the Contract Sum shall be the amount of actual net cost confirmed by the Engineer plus the stated percentage for overhead and profit. When both additions and deletions or credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease with respect to that change.

### 7.2 SUPPLEMENTAL AGREEMENTS

A written Supplemental Agreement can also be used to implement changes in the Work instead of a Change Order form, including but not limited to situations involving partial occupancy of the Work under Paragraph 9.8, a change made to the Drawings or the Specifications without an increase in the

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Contract Sum, or special circumstances where it is necessary or more appropriate for the Owner to use a Supplemental Agreement. Written Supplemental Agreements shall have a status equal to that of Change Orders for purposes of priority of Contract Documents interpretation, except that to the extent of a conflict, later Supplemental Agreements in time control over earlier Supplemental Agreements, and the latest Change Order or Supplemental Agreement in time controls over earlier dated Change Orders and Supplemental Agreements. The rules of Subparagraphs 7.1(b) through (f) shall also apply to the negotiation and execution of Supplemental Agreements.

### **7.3 MINOR CHANGES IN THE WORK**

The Engineer, after notifying the Owner, shall be authorized to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Minor changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly. These written orders shall not be deemed to change or impact the Contract Sum or the Contract Time. Contractor shall have no Claim for any minor change ordered to the Work under this Paragraph 7.3 unless the Contractor submits its change proposal, prior to complying with the minor change ordered and in no event later than ten (10) working days from the date the minor change was ordered, to the Owner for approval.

### **7.4 TIME REQUIRED TO PROCESS AMENDMENTS**

- (a) All of the Contractor's responses to proposal requests shall be accompanied by a complete, itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow the Owner and the Engineer a minimum of thirty (30) calendar days after receipt by the Engineer to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. All of the Contractor's responses to proposal requests shall include a statement that the cost described in the response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution, or other grounds for seeking extra compensation under the Contract Documents, without reservation or further recourse.
  
- (b) All Amendments require approval by either the City Council or, where authorized by the state law and City ordinance, by the City Manager pursuant to Administrative Action. The approval process requires a minimum of forty-five (45) calendar days after submission to the Owner in final form with all supporting data. Receipt of a submission by Owner does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal will be authorized by City Council Resolution or Administrative Action. **THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR INCREASE IN THE CONTRACT SUM WILL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS.** Pending the approval described above, the Contractor will proceed with the work under a pending Amendment only if directed in writing by the Owner.

## **ARTICLE 8 CONTRACT TIME**

### **8.1 DEFINITIONS**

- (a) Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.
  
- (b) The date of commencement of the Work is the date established in the notice to proceed from the Owner. The date of commencement shall not be postponed by the failure of the Contractor, or of

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persons or entities for whom the Contractor is responsible to act promptly to commence the Work. If the Owner unreasonably delays the issuance of the notice to proceed through no fault of the Contractor, the Contractor shall be entitled only to an equitable extension of the Contract Time; the Contract Sum shall remain unchanged.

- (c) The date of Substantial Completion is the date certified by the Engineer in accordance with Paragraph 9.7.
- (d) The term "day" as used in the Contract Documents shall mean a calendar day, beginning and ending at 12:00 midnight, unless otherwise specifically defined by special provision.

### 8.2 PROGRESS AND COMPLETION

- (a) Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Building Construction Services Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.
- (b) The Contractor shall not knowingly, except by agreement with or instruction of the Owner in writing, prematurely commence operations on the Project site or elsewhere prior to the effective date of insurance to be furnished by the Contractor as required by Article 11. The date of commencement of the Work shall not be changed by the effective date of insurance required by Article 11.
- (c) Liquidated Damages. The Contractor shall proceed expeditiously with adequate forces, materials, and equipment, and shall achieve Substantial Completion within the Contract Time. If the Contractor fails or refuses to complete the Work within the Contract Time as specified in the Bid Proposal form, the Building Construction Services Agreement, or in any proper extension of the Contract Time granted by the Owner, then the Contractor agrees, as a part of the consideration for the awarding of the Contract, to pay to the Owner the amount of liquidated damages (hereinafter called the "Stipulated Amount") as stipulated in the Bid Proposal form and the Building Construction Services Agreement for each calendar day that the Contractor has not Substantially Completed the Work after the expiration of the Contract Time provided. The Stipulated Amount is not to be considered as a penalty, but shall be deemed, taken, or treated as reasonable liquidated damages, fixed and agreed upon by and between the Contractor and the Owner because of the impracticality and extreme difficulty of fixing and ascertaining the actual damages the Owner would sustain in the event of the Contractor's late completion of the Project, and the stipulated amount is agreed to be the daily amount of damages that the Owner would sustain. The Stipulated Amount, as it accrues, will be retained from any portion of the Contract Sum due or that may become due to the Contractor. In the event the portion of the Contract Sum retained by the Owner is insufficient to recover the Stipulated Amount, then the Contractor or the Contractor's Surety shall pay to the Owner any additional liquidated damages due that are in excess of the funds remaining unpaid in the Contract Sum. The Owner shall be the sole judge as to whether or not the Work has been Substantially Completed within the calendar days allotted, which shall include the original Contract Time and any proper extension of the Contract Time granted in writing by the Owner. Should the Contractor dispute the Owner's determination of liquidated damages due, however, or should the Contractor, or the Contractor's agents or assigns, institute any legal action against the Owner to enforce rights under the Contract Documents, then this Subparagraph 8.2(c) shall not be construed to prevent the Owner from seeking full recovery for any and all actual damages suffered by the Owner and attributable to the Contractor, as an alternative to all liquidated damages due.

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### 8.3 DELAYS AND EXTENSIONS OF TIME

- (a) If the Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Engineer, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending a claim, or by other causes which the Engineer determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Engineer and Owner may determine.
- (b) Claims relating to Contract Time and time extensions shall be made in accordance with the applicable provisions of Paragraph 4.3.
- (c) No Damages for Delay. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE CONTRACT DOCUMENTS, INCLUDING THE GENERAL CONDITIONS, NO ADJUSTMENT SHALL BE MADE TO THE CONTRACT SUM AND THE CONTRACTOR SHALL NOT BE ENTITLED TO CLAIM OR RECEIVE ANY ADDITIONAL COMPENSATION AS A RESULT OF OR ARISING OUT OF ANY DELAY, HINDRANCE, DISRUPTION, FORCE MAJEURE, IMPACT, OR INTERFERENCE, INTENTIONAL OR UNINTENTIONAL, FORESEEN OR UNFORESEEN, WHICH INCREASES THE TIME TO COMPLETE THE WORK, INCLUDING BUT NOT LIMITED TO ANY DELAYS CAUSED IN WHOLE OR IN PART BY THE ACTS, OMISSIONS, FAILURES, NEGLIGENCE, OR FAULT OF THE OWNER, THE ENGINEER, OR THE OWNER'S REPRESENTATIVE, AN EXTENSION OF THE CONTRACT TIME UNDER SUBPARAGRAPH 8.3(a) BEING THE CONTRACTOR'S SOLE REMEDY.
- (d) The Owner shall have the right to occupy, without prejudice to the right of either party, any completed or largely completed portions of the structure or Work, notwithstanding the fact that the Contract Time for completing all or a portion of the Work may not have expired. Partial occupancy and use shall not be deemed as an acceptance of the Work taken or used.
- (e) The Contractor shall promptly suspend the Work when either the Contractor or the Owner is ordered to do so by a court order from a court having lawful jurisdiction, and the Contractor will not be entitled to additional compensation by virtue of any delays resulting from the court order. The Contractor will also not be liable to the Owner for a delay caused in fact by the Work being suspended by a court order.
- (f) The Engineer, with the consent of the Owner, shall have the authority to suspend the Work, in whole or in part, for such period or periods as the Engineer deems necessary due to unusual or severe weather conditions as are considered unfavorable for the suitable prosecution of the Work, or due to failure on the part of the Contractor to correct conditions considered unsafe for workmen or the general public. If it should become necessary to stop 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 or become damaged in any way, and shall take every precaution to prevent damage or deterioration of the Work performed. In cases of suspension of the Work under this Subparagraph, the Contractor shall also provide suitable drainage about the Work and erect temporary structures where necessary. The Contractor shall not suspend the Work in whole or in part without written authority from the Engineer or the Owner, and shall resume the Work promptly when notified by the Engineer or the Owner to resume operations.

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- (g) In the event of a delay that is the responsibility of the Contractor or any of the Subcontractors, for which the Contractor is not entitled to a time extension under the provisions of this Contract, the Owner may direct that the Work be accelerated by means of overtime, additional crews or additional shifts, or resequencing. This acceleration shall be at no cost to the Owner and will continue until the Contract Time is restored. In the event of a delay for which the Contractor is entitled to a time extension, as determined by the Engineer, Owner may similarly direct acceleration and the Contractor agrees to perform same on the basis that the Contractor will be reimbursed only to the extent described in Subparagraph 4.3(i). **THE CONTRACTOR EXPRESSLY WAIVES ANY OTHER COMPENSATION RESULTING FROM ACCELERATION, SUCH AS LOSS OF LABOR PRODUCTIVITY OR EFFICIENCY.**

### **ARTICLE 9 PAYMENTS AND COMPLETION**

#### **9.1 CONTRACT SUM**

The Contract Sum is stated in the Building Construction Services Agreement and, including authorized adjustments, is the total amount of compensation payable by the Owner to the Contractor for the performance of the Work under the Contract Documents.

#### **9.2 SCHEDULE OF VALUES**

Before the first Application for Payment, the Contractor shall submit to the Engineer a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Engineer may require. This schedule, when approved by the Engineer and the Owner, shall be used as a basis for the Contractor's Application for Payment. The schedule of values shall follow the trade division of the Specifications. Contractor's Application for Payment shall be filed on the current version of AIA Form G702 (Application and Certificate for Payment), as approved by the Owner.

#### **9.3 APPLICATIONS FOR PAYMENT**

- (a) At least ten (10) days before the date established for each progress payment, the Contractor shall submit to the Engineer an itemized Application for Payment for Work completed in accordance with the schedule of values. The Application shall be notarized, if required, and supported by data substantiating the Contractor's right to payment as the Owner or Engineer may require, including but not limited to copies of requisitions from Subcontractors and material suppliers, and reflecting the applicable retainage as required in the Contract Documents. Contractor's Application for Payment shall also provide other supporting documentation as the Owner or the other applicable provisions of the Contract Documents may require.
- (b) Applications for Payment may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor because of a good faith dispute, unless the Contractor complies with Clause 5.3(b) (2) of these General Conditions and the Contractor's Payment Bond Surety consents in writing to payment to the Contractor of the funds deemed to be in dispute.
- (c) Unless otherwise provided in the Contract Documents, progress payments shall include payment for materials and equipment delivered and suitably stored at the Project site for subsequent incorporation into the Work within thirty (30) days after delivery to the Project site. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored away from the Project site at a location agreed upon in writing. Payment for costs incurred

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in storage of materials or equipment away from the Project site will NOT be made by Owner unless:

- (1) the Owner has given prior approval of such off-site storage in writing;
  - (2) the materials or equipment are stored in a bonded warehouse located in Denton County and identified with the Project for which they are stored, as evidenced by warehouse receipts and appropriate documents of title; and
  - (3) the materials or equipment stored off-site will be incorporated into the Work within thirty (30) days after delivery. STORAGE IN FACILITIES OF THE MANUFACTURER OR THE CONTRACTOR WILL NOT BE PERMITTED OR PAID FOR, UNLESS THE OWNER HAS EXPRESSLY GIVEN PRIOR APPROVAL OF SUCH STORAGE IN WRITING.
- (d) The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.
- (e) All materials or equipment delivered to the Project site earlier than thirty (30) days prior to an approved schedule for delivery to the Project site shall be classified as an "early delivery." All early delivery materials or equipment must have the express written permission of the Owner to be stored on the Project site. If any unauthorized early delivery occurs, Contractor shall, at Contractor's expense or at the expense of the responsible Subcontractor or Supplier, cause such early delivery to be removed from the Project site and stored off-site until required at the Project site. All costs of labor, transportation and storage will be included as part of the expense. If the Contractor fails or refuses to remove unauthorized early delivery materials, the Owner may cause such materials to be removed at the Contractor's sole expense, and amounts may be withheld from the Contractor's Application for Payment to reimburse the Owner for any costs incurred in removing unauthorized early delivery materials. OWNER WILL NOT BE RESPONSIBLE FOR THE PROTECTION OF OR RISK OF LOSS ON ANY EARLY DELIVERY MATERIALS OR EQUIPMENT, NOR WILL OWNER BE LIABLE FOR ANY PAYMENT FOR THE EARLY DELIVERY MATERIALS OR EQUIPMENT. Any materials or equipment classified as early delivery will not be approved for payment as stored materials prior to thirty (30) days before the incorporation of the materials or equipment into the Work, unless storage and payment at an earlier date is expressly approved in writing by the Owner.
- (f) If the Contract Sum is equal to or less than \$25,000.00 and performance and payment bonds are not furnished by the Contractor, no payment applied for will be payable under the Contract until the Work has been Finally Completed and accepted.

### 9.4 CERTIFICATES FOR PAYMENT

- (a) The Engineer will, within ten (10) days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Engineer determines is properly due, or notify the Contractor and Owner in writing of the Engineer's reasons for withholding certification in whole or in part as provided in
- (a) Subparagraph 9.5(a). The Certificate for Payment shall be issued on the current version of AIA Form G702 (Application and Certificate for Payment) as approved by the Owner.

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- (b) The issuance of a Certificate for Payment will constitute a representation by the Engineer to the Owner, based on the Engineer's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Engineer's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial and Final Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Final Completion and to specific qualifications expressed by the Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified, subject to the Owner's approval. The issuance of a Certificate for Payment is not a representation that the Engineer has:
- (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;
  - (2) reviewed construction means, methods, techniques, sequences or procedures;
  - (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or
  - (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.
- (c) Whenever the Application for Payment for Work done since the last previous Application for Payment exceeds one hundred dollars (\$100.00) in amount, Owner will pay a percentage of the Application, less applicable retainage, to the Contractor within thirty (30) days following Owner's receipt and approval of the Certificate for Payment certified by the Engineer. The Application may include acceptable nonperishable materials delivered to the Work or stored as provided for in Paragraph 9.3(c) and the payment will be allowed on the net invoice value, less taxes and applicable retainage.
- (d) The City is required to withhold retainage for public works contracts in which the total contract price estimate at the time of execution is more than \$400,000; however, this requirement is typically applied by the City for all public works contracts in excess of \$50,000. The City may require varying percentage withholding amounts; however, the City typically requires five percent. For retainage percentages in excess of five percent, the City must deposit the retainage into an interest-bearing account and pay the interest earned to the contractor on completion of the contract. The retainage will be withheld by the Owner from each progress payment until final completion of the Work by the Contractor, approval of final completion by the Engineer, and final acceptance of the Work by the Owner. Unless otherwise required by state law, the retainage percentage as specified above is based upon the original Contract Sum, and will not be affected in the event the original Contract Sum is subsequently increased or decreased by Change Order.
- (e) No progress payments shall be made on contracts where performance and payment bonds are not required or furnished. In such instances, payment for the Work performed will be made upon final completion and acceptance by the Owner of all Work.

### 9.5 DECISIONS TO WITHHOLD CERTIFICATION

- (a) The Engineer or the Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner's interest, if

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in the Engineer's or Owner's opinion the representations to the Owner required by Subparagraph 9.4(b) cannot be made. If the Engineer or the Owner is unable to certify payment in the amount of the Application, the Engineer or the Owner will notify the Contractor as provided in Subparagraph 9.4(a). If the Contractor and Engineer or the Owner cannot agree on a revised amount, the Engineer will promptly issue a Certificate for Payment for the amount for which the Engineer is able to make the required representations to the Owner. The Engineer or the Owner may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary, in the Engineer's or Owner's opinion, to protect the Owner from loss because of:

- (1) defective or nonconforming Work not remedied;
  - (2) third party claims filed or reasonable evidence indicating probable filing of such claims;
  - (3) failure of the Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;
  - (4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
  - (5) damage to the Owner or another contractor;
  - (6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - (7) persistent failure to carry out the Work in accordance with the Contract Documents; or
  - (8) mathematical or other errors that are discovered in the Application for Payment.
- (b) When each of the above reasons that existed for withholding certification are removed or remedied, certification will be made for amounts previously withheld.
- (c) The Owner may, at its option, offset any progress payment or final payment under the Contract Documents against any debt (including taxes) lawfully due to the Owner from the Contractor, regardless of whether the amount due arises pursuant to the terms of the Contract Documents or otherwise and regardless of whether or not the debt due to the Owner has been reduced to judgment by a court.

### 9.6 PROGRESS PAYMENTS

- (a) After the Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Engineer. The Owner shall not be liable for interest on any late or delayed progress payment or final payment caused by any claim or dispute, any discrepancy in quantities, any failure to provide supporting documentation or other information required with the Application for Payment or as a precondition to payment under the Contract Documents, or due to any payment the Owner or the Engineer has a right to withhold or not certify under the Contract Documents. Notwithstanding the foregoing, the Owner may refuse to make payment on any Certificate for

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Payment (including, without limitation, the final Certificate for Payment) for any default under the Contract Documents, including but not limited to those defaults set forth in Subparagraph 9.5(a), Clauses (1) through (7). The Owner shall not be deemed in default by reason of withholding payment while any Contractor default remains uncured.

- (b) The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of each Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractors portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.
- (c) The Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Engineer and the Owner on account of portions of the Work done by such Subcontractor.
- (d) Neither the Owner nor the Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law. That obligation belongs to the Contractor or, in the event of the Contractor's failure to pay a Subcontractor, to the Surety on the Payment Bond as required under Paragraph 11.3.
- (e) Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6(b), (c), and (d).
- (f) A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not performed in accordance with the Contract Documents.

### 9.7 SUBSTANTIAL COMPLETION

(a) The Date of Substantial Completion of the Work, or designated portion of the Work, is the date certified by the Engineer when construction is sufficiently completed in accordance with the City Of Denton General Conditions For Building Construction.

- (a) the Contract Documents such that the Owner may beneficially occupy and use the Work, or designated portions of the Work, for the purposes for which it is intended and only trivial and insignificant items remain which do not affect the Work as a whole.
- (b) When the Contractor considers that the Work, or the portion of the Work which the Owner agrees to accept separately, is Substantially Complete, the Contractor shall prepare and submit to the Engineer a comprehensive list of remaining items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list (hereinafter called the "punch list"). Failure to include an item on the punch list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the punch list, the Engineer will make an inspection to determine whether the Work, or designated portion of the Work, is Substantially Complete. If the Engineer's inspection discloses any item, whether or not included on the punch list, which is not in accordance with the requirements of the Contract Documents and which renders the Work inspected not Substantially Complete the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct the item upon notification by the Engineer. The Contractor shall then submit a request for another inspection by the Engineer to determine Substantial Completion. When the

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Work or designated portion of the Work is Substantially Complete, the Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the punch list accompanying the Certificate.

- (c) The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of responsibilities assigned to them in the Certificate.
- (d) Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Engineer, the Owner shall make payment, reflecting adjustment in retainage, if any, for the Work, or portion of the Work, as provided in the Contract Documents.

### 9.8 PARTIAL OCCUPANCY OR USE

- (a) The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate Supplemental Agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.2(e) and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion Substantially Complete, the Contractor shall prepare and submit a list to the Engineer as provided under Subparagraph 9.7(b). Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the
  - (a) progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Engineer.
  - (b) Immediately prior to such partial occupancy or use, the Owner, Contractor, and Engineer shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
  - (c) Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

### 9.9 FINAL COMPLETION AND FINAL PAYMENT

- (a) Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Engineer, accompanied by the Owner's representative, will promptly make final inspection and, when the Engineer finds the Work acceptable under the Contract Documents and the Contract Documents fully performed, the Engineer will promptly issue a final Certificate for Payment stating that to the best of the Engineer's knowledge, information and belief, and on the basis of the Engineer's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Engineer's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.9(b) as a condition precedent to the Contractor's being entitled to final payment have been fulfilled. Owner will normally make

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final payment within thirty (30) days after Owner's receipt and approval of the final Certificate for Payment. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise provided by separate agreement between the Owner and the Contractor.

- (b) Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Engineer:
- (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
  - (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner;
  - (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
  - (4) a consent of surety to final payment; and
  - (5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.
- (c) As a precondition to final payment by the Owner under this Contract, the Contractor's affidavit under Clause (b)(1) shall state that the Contractor has paid each of his subcontractors, laborers or materialmen in full for all labor and materials provided to him for the Work under this Contract. In the event the Contractor has not paid each of his subcontractors, laborers or materialmen in full, the Contractor shall state in the affidavit the amount owed and the name of each subcontractor, laborer or materialmen to whom such payment is owed. **IN ANY EVENT, THE CONTRACTOR SHALL BE REQUIRED TO EXECUTE THE OWNER'S STANDARD AFFIDAVIT OF FINAL PAYMENT AND RELEASE AS A PRECONDITION TO RECEIPT OF FINAL PAYMENT.**
- (d) If, after Substantial Completion of the Work, final completion of the Work is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion and the Engineer confirms the delay, the Owner shall, upon application by the Contractor and certification by the Engineer, 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 for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Engineer prior to certification of payment. Payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.
- (e) The acceptance by the Contractor of the final payment shall operate as and shall be a complete release of the Owner from all claims or liabilities under the Contract, for anything done or furnished or relating to the Work or the Project, or for any act or neglect of the Owner relating to or connected with the Work or the Project.

## **ARTICLE 10 SAFETY, SECURITY AND UTILITY PROVISIONS; ENVIRONMENTAL COMPLIANCE**

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### 10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract, and will comply with all applicable City, County, State and Federal health and safety regulations.

### 10.2 SAFETY OF PERSONS AND PROPERTY

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

(1) employees on the Work and other persons who may be affected thereby;

(2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and

(3) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

(b) The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

(c) The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

(d) **USE OF EXPLOSIVES IS PROHIBITED - CLAIMS AND TOTAL INDEMNIFICATION.** The Owner shall have the right to pre-approve the use of any explosives on the Project; the Contractor shall not assume in its bid that permission to use explosives will be granted. The Owner shall NOT be liable for any claim for additional time or compensation as a result of the Owner's denial of permission to use explosives. Where use of explosives is permitted by the Owner, the Contractor EXPRESSLY AGREES TO BE SOLELY RESPONSIBLE for the determination as to whether explosives shall actually be used, and for any result from the use, handling or storage of explosives, and shall INDEMNIFY, DEFEND AND HOLD COMPLETELY HARMLESS the Owner, its officers, agents and employees, and the Engineer against any and all claims, lawsuits, judgments, costs or expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, as the result of the use, handling or storage of the explosives by the Contractor or any Subcontractor, REGARDLESS OF WHETHER SAID USE, HANDLING OR STORAGE WAS NEGLIGENT OR NOT, AND REGARDLESS OF WHETHER THE DAMAGE OR INJURY WAS CONTRIBUTED TO IN ANY WAY BY THE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES, OR THE ENGINEER AND ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES. In the event of conflict with any other indemnity paragraph in this Contract, this paragraph controls. This indemnity paragraph is intended solely for the benefit of the parties to this Contract and is not intended to create or grant any rights, contractual or otherwise, to or for any other person or entity. The Contractor shall furnish the Owner and the Engineer with evidence of insurance sufficient to cover possible damage or injury, which insurance shall either include the

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Owner and the Engineer as additional insureds or be sufficiently broad in coverage as to fully protect the Owner and the Engineer.

- (e) The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2(a)(2) and 10.2(a)(3) caused in whole or in part by the Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2(a)(2) and 10.2(a)(3), except damage or loss attributable to acts or omissions of the Owner or Engineer or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor or any of its Subcontractors. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.19. To the extent that any such damage or loss may be covered by property insurance or other insurance required by the Contract Documents, the Owner and the Contractor shall exercise their best efforts to make a claim and obtain recovery from the insurers to provide for the cost, in whole or in part, of the repair work or to provide for reimbursement for such damage or loss.
- (f) The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Engineer.
- (g) The Contractor shall not load or permit any part of the Work or the Project site to be loaded so as to endanger its safety.

### **10.3 EMERGENCIES**

In an emergency affecting safety, health, or security of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

### **10.4 PUBLIC CONVENIENCE AND SAFETY**

- (a) The Contractor shall place materials stored about the Work and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by the Owner. Sidewalks or streets shall not be obstructed, except by special permission of the Owner. The materials excavated and the construction materials or plant used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances, and fire alarm or police call boxes in the vicinity.
- (b) The Owner reserves the right to remedy any neglect on the part of the Contractor in regard to public convenience and safety which may come to the Owner's attention, after twenty-four (24) hours notice in writing to the Contractor. In case of an emergency, the Owner shall have the right to immediately remedy any neglect without notice. In either case, the cost of any work done by the Owner to remedy the Contractor's neglect shall be deducted from the Contract Sum. The Contractor shall notify the City Traffic Control Department when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be forty-eight (48) hours in advance. The Owner reserves the right to

## **EXHIBIT 1**

postpone or prohibit any closure or obstruction of any streets or thoroughfares to the extent necessary for the safety and benefit of the traveling public. The Contractor shall, when directed by the Engineer or the Owner, keep any street or streets in condition for unobstructed use by City departments. When the Contractor is required to construct temporary bridges or make other arrangements for crossing over ditches or around structures, the Contractor's responsibility for accidents shall include the roadway approaches as well as the crossing structures.

### **10.5 BARRICADES, LIGHTS AND WATCHMEN**

If the Work is carried on or adjacent to any street, alley or public place, the Contractor shall, at the Contractor's own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, shall provide sufficient watchmen, and shall take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that will be visible at night, shall indicate in bold letters thereon the Contractor's name and shall be illuminated by lights from sunset to sunrise. The term "lights," as used in this Paragraph, shall mean flares, flashers, or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices shall also be erected to keep vehicles from being driven on or into any Work under construction. The Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights and watchmen to protect the Work. Whenever evidence is found of such damage, the Engineer may order the damaged portion immediately removed and replaced by the Contractor at Contractor's cost and expense. The Contractor's responsibility for maintenance of barricades, signs, and lights, and for providing watchmen, shall not cease until the Project has been finally accepted by the Owner.

### **10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED**

In case it is necessary to change or move the property of the Owner or of any telecommunications or public utility, such property shall not be removed or interfered with until ordered to do so by the Engineer. The right is reserved to the owner of any public or private utilities to enter upon the Project site for the purpose of making such changes or repairs of their property that may become necessary during the performance of the Work. The Owner reserves the right of entry upon the Project site for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures, and for making other repairs, changes, or extensions to any of the Owner's property. The Owner's actions shall conform to the Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to the Owner by the Contractor.

### **10.7 ARRANGEMENT AND CHARGE FOR WATER FURNISHED BY THE OWNER; ELECTRICITY FOR THE PROJECT**

(a) Traffic Department will supply contractor with Electricity through coordination with DME.

### **10.8 USE OF FIRE HYDRANTS**

The Contractor, Subcontractors, and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve, or stop cock, or tap any water main belonging to the Owner, unless duly authorized to do so by the Denton Water Utilities Department in accordance with the Denton City Code.

### **10.9 ENVIRONMENTAL COMPLIANCE**

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- (a) The Contractor and its Subcontractors are deemed to have made themselves familiar with and at all times shall comply with all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project.
- (b) In the event the Contractor encounters on the site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and removal of such materials is not a part of the scope of Work required under the Contract Documents, the Contractor shall immediately stop Work in the affected area and report in writing the facts of such encounter to the Engineer and the Owner. Work in the affected area shall not thereafter be resumed except by written order of the Owner unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. The Owner may choose to remediate the Hazardous Substance with a separate contractor or through a Change Order with the Contractor. If the Owner determines that the Hazardous Substance exists in the affected area due to the fault or negligence of the Contractor or any of its Subcontractors, the Contractor shall be responsible for remediating the condition at the sole expense of the Contractor in accordance with the Contractor's APPROVED Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by the Owner only if all remaining Work on the Project must be suspended and the delay cannot be made up elsewhere in the progress schedule. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of Paragraph 4.3 and Article 8.
- (c) The Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation, and disposal of any Hazardous Substance brought into or upon the site by the Contractor or any Subcontractor or Supplier. The Contractor shall obtain any and all permits necessary for the legal and proper handling, transportation, and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation, and disposal, notify the Owner and the Engineer so that they may observe the activities; provided, however, that it shall be the Contractor's sole responsibility to comply with all applicable laws, rules, regulations, or ordinances governing the activities.
- (d) The Contractor shall deposit surplus or waste excavation or other materials removed as part of the Work at a legal disposal site in accordance with all applicable state, federal, and local laws, rules, regulations, and ordinances. The Contractor shall submit to the Owner for review and approval all planned disposal sites or proposed uses for the surplus or waste excavation or other materials prior to removal of any excavation or other material from the Project site. A copy of all transport manifests for surplus or waste excavation or other materials shall be obtained and retained in the Contractor's records for reference purposes, to be provided upon

## **EXHIBIT 1**

request to the Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter.

- (e) The Contractor shall not install any materials in the performance of the Work that contain asbestos or asbestos-related material such as hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophyllite or actinolite, whether friable or non-friable.
- (f) The Owner reserves the right in its sole option to exercise the following remedies (without waiving the right to pursue the imposition of any civil or criminal fines or penalties that may be imposed under state, federal, or local laws or ordinances), at no additional cost to the Owner and without an extension of the Contract Time, in the event the Contractor fails or refuses after seven (7) days advance written notice from the Owner to comply with the provisions of this Paragraph 10.10, the terms of the SPRP, the terms of the Clean Air Management Plan, any storm water permit or other environmental permit issued in connection with the Work, or any applicable environmental law, rule, regulation, or ordinance:
  - (1) suspend all or any portion of the Work until the noncompliance is corrected, or until a detailed plan to achieve compliance within a reasonably prompt period of time is prepared by the Contractor and approved by the Owner;
  - (2) if the Contractor fails to properly address the noncompliance within the time stipulated by the Owner, perform the necessary remediation or correction work and backcharge the Contractor for the cost of the remediation or correction; or
  - (3) terminate the Contract for cause as provided in Article 13.

### **ARTICLE 11 INSURANCE AND BONDS**

#### **11.1 CONTRACTOR'S INSURANCE**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

#### **11.2 PROPERTY INSURANCE**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

#### **11.3 'UMBRELLA' LIABILITY INSURANCE**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

#### **11.4 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS**

Contractors shall refer to Attachment A for all City of Denton insurance requirements.

#### **11.6 PERFORMANCE AND PAYMENT BONDS**

- (a) Subject to the provisions of Subparagraph 11.3(b), the Contractor shall, with the execution and delivery of the Construction Services Agreement, furnish and file with the Owner in the amounts required in this Paragraph, the surety bonds described in Clauses (a)(1) and (a)(2) below, which surety bonds shall be in accordance with the Charter of the City of Denton and the provisions of Chapter 2253, Texas Government Code, as amended; each bond shall be signed by the Contractor, as Principal, and by an established bonding company, as surety, meeting the requirements of Subparagraph 11.3(c) and approved by the Owner. The surety bonds shall be

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accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign:

- (1) Performance Bond. A good and sufficient bond in an amount equal to 100% of the total Contract Sum, guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any Amendments thereof, for the protection of the Owner. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of two (2) year from the date of final completion and acceptance of the improvements by the Owner or lesser or longer periods as may be otherwise designated in the Contract Documents.
  - (2) Payment Bond. A good and sufficient bond in an amount equal to 100% of the total Contract Sum, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract Documents and any Amendments thereto, and for the use and protection of each claimant.
- (b) If the Contract Sum, including Owner-accepted alternates and allowances, if any, is greater than \$100,000, Performance in 100% of the Contract Sum are mandatory and shall be provided by the Contractor. If the Contract Sum is greater than \$50,000 but less than or equal to \$100,000, only a Payment Bond in 100% of the Contract amount is mandatory; provided, however, that the Contractor may elect to furnish a Performance Bond in the same amount if the Contractor so chooses. If the Contract Sum is less than or equal to \$25,000, the Contractor may elect not to provide Performance and Payment Bonds; provided that in such event, no money will be paid to the Contractor until final completion and acceptance of all work by Owner. If the Contractor elects to provide Performance and Payment Bonds 100% of the total Contract Sum, progress payments in accordance with these General Conditions shall be disbursed.
- (c) No surety will be accepted by the Owner who is now in default or delinquent on any bonds or who is a party to any litigation against the Owner. All bonds shall be made and executed on the Owner's standard forms, shall be approved by the Owner, and shall be executed by not less than one corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties, and is otherwise acceptable to the Owner. Each bond shall be executed by the Contractor and the surety, and shall specify that legal venue for enforcement of each bond shall lie exclusively in Denton County, Texas. Each surety shall designate an agent resident in Denton County, Texas to whom any requisite statutory notices may be delivered and on whom service of process may be had in matters arising out of the suretyship.
- (d) The person or persons, partnership, company, firm, Limited Liability Company, association, corporation, or other business entity to whom the Contract is awarded shall, within ten (10) days after such award, sign the required Contract with the Owner and provide the necessary surety bonds and evidence of insurance as required under the Contract Documents. No Contract shall be binding on the Owner until it has been approved as to form by the City Attorney, executed for the Owner by the City Manager, the performance and payment bonds and evidence of insurance have been furnished as required by the Contract Documents, and the fully executed contract has been delivered to the Contractor.

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- (e) The failure of the Contractor to execute the Contract or deliver the required statutory bonds and evidence of insurance within ten (10) days after the Contract is awarded or as soon thereafter as the Owner can assemble and deliver the Contract shall constitute a material breach of the Contractor's bid proposal and the Owner may rescind the Contract award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices or materials and labor, and it being impracticable and difficult to determine accurately the amount of damages occurring to the Owner by reason of the Contractor's failure to execute and furnish the statutory bonds and to sign the Contract within ten (10) days, the filing of a bid proposal with the accompanying bid security will be considered as an acceptance of this Subparagraph 11.3(e). In the event the Owner should re-advertise for bids, the defaulting Contractor shall not be eligible to bid, and the lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this Paragraph.

### **ARTICLE 12 DEFECTIVE AND NONCONFORMING WORK**

#### **12.1 UNCOVERING OF WORK**

- (a) If a portion of the Work is covered contrary to the Engineer's request or to requirements specifically expressed in the Contract Documents, the Work must, if required in writing by the Engineer, be uncovered for the Engineer's observation and be replaced at the Contractor's expense without change in the Contract Time.
- (b) If a portion of the Work has been covered which the Engineer has not specifically requested to observe prior to it being covered, the Engineer may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If any Work is not in accordance with the Contract Documents, the Contractor shall pay the costs of uncovering, repair, replacement unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

#### **12.2 CORRECTION OF WORK**

- (a) The Contractor shall promptly correct Work rejected by the Engineer as failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Engineer's services and expenses made necessary thereby.
- (b) If any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Engineer or the Owner to do so unless the Owner has previously given the Contractor a written acceptance or waiver of the defect or nonconformity. The Contractor's obligation to correct defective or nonconforming Work remains in effect for:
  - (1) one year after the date of Substantial Completion of the Work or designated portion of the Work;
  - (2) one year after the date for commencement of warranties established by agreement in connection with partial occupancy under Subparagraph 9.8(a); or

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- (3) the stipulated duration of any applicable special warranty required by the Contract Documents.
- (c) The one-year period described in Clauses (b)(1) and (b)(2) shall be extended with respect to portions of the Work performed, repaired, or corrected after Substantial Completion by the period of time between Substantial Completion and the actual completion of the Work.
- (d) The obligations of the Contractor under this Paragraph 12.2 shall survive final acceptance of the Work and termination of this Contract. The Owner shall give notice to the Contractor promptly after discovery of a defective or nonconforming condition in the Work. The one-year period stated in Clauses (b)(1) and (b)(2) does not limit the ability of the Owner to require the Contractor to correct latent defects or nonconformities in the Work, which defects or nonconformities could not have been discovered through reasonable diligence by the Owner or the Engineer at the time the Work was performed or at the time of inspection for certification of Substantial Completion or Final Completion. The one year period also does not relieve the Contractor from liability for any defects or deficiencies in the Work that may be discovered after the expiration of the one year correction period.
- (e) The Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- (f) If the Contractor fails to correct defective or nonconforming Work within a reasonable time after notice from the Owner or the Engineer, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of defective or nonconforming Work within a reasonable time fixed by written notice from the Engineer, the Owner may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of removal and storage within ten days after written notice, the Owner may, upon ten (10) additional days written notice, sell the materials and equipment at auction or at private sale and shall account for the proceeds after deducting costs and damages that should have been borne by the Contractor, including compensation for the Engineer's services and expenses made necessary as a result of the sale. If the proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to the Contractor then or thereafter are not sufficient to cover the deficiency, the Contractor shall pay the difference to the Owner.
- (g) The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether the construction is completed or partially completed, that is caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.
- (h) Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the one-year time period as described in Subparagraph 12.2(b) relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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- (i) Any Work repaired or replaced pursuant to this Article 12 shall be subject to the provisions of Article 12 to the same extent as Work originally performed or installed.

### **12.3 ACCEPTANCE OF NONCONFORMING WORK**

The Owner may, in the Owner's sole discretion, accept Work which is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. The adjustment will be accomplished whether or not final payment has been made.

## **ARTICLE 13 COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION**

### **13.1 FINAL COMPLETION OF CONTRACT**

The Contract will be considered completed, except as provided in any warranty or maintenance stipulations, bond, or by law, when all the Work has been finally completed, the final inspection is made by the Engineer, and final acceptance and final payment is made by the Owner.

### **13.2 WARRANTY FULFILLMENT**

Prior to the expiration of the specified warranty period provided for in the Contract Documents, the Engineer will make a detailed inspection of the Work and will advise the Contractor and the Contractor's Surety of the items that require correction. The Engineer will make a subsequent inspection and if the corrections have been properly performed, the Engineer will issue a letter of release on the maintenance stipulations to the Contractor and the Surety. If for any reason the Contractor has not made the required corrections before the expiration of the warranty period, the warranty provisions as provided for in the Contract Documents shall remain in effect until the corrections have been properly performed and a letter of release issued.

### **13.3 TERMINATION BY THE OWNER FOR CAUSE**

- (a) Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by the Owner for any good cause after giving seven (7) days advance written notice and opportunity to cure to the Contractor, including but not limited to the following causes:
  - (1) Failure or refusal of the Contractor to start the Work within ten (10) days after the date of written notice by the Owner to commence the Work.
  - (2) A reasonable belief that the progress of the Work being made by the Contractor is insufficient to complete the Work within the specified time.
  - (3) Failure or refusal of the Contractor to provide sufficient and proper equipment or construction forces to properly execute the Work in a timely manner.
  - (4) A reasonable belief that the Contractor has abandoned the Work.
  - (5) A reasonable belief that the Contractor has become insolvent, bankrupt, or otherwise financially unable to carry on the Work.

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- (6) Failure or refusal on the part of the Contractor to observe any requirements of the Contract Documents or to comply with any written orders given by the Engineer or the Owner as provided for in the Contract Documents.
  - (7) Failure or refusal of the Contractor to promptly make good any defects in materials or workmanship, or any defects of any nature, the correction of which has been directed in writing by the Engineer.
  - (8) A reasonable belief by the Owner that collusion exists or has occurred for the purpose of illegally procuring the Contract or a Subcontractor, or that a fraud is being perpetrated on the Owner in connection with the construction of Work under the Contract.
  - (9) Repeated and flagrant violation of safe working procedures.
  - (10) The filing by the Contractor of litigation against the Owner prior to completion of the Work.
- (b) When the Work or any portion of the Work is terminated for any of the causes itemized above or for any other cause except termination for convenience pursuant to Subparagraph 13.3(e), the Contractor shall, as of the date specified by the Owner, discontinue the Work or portion of the Work as the Owner shall designate, whereupon the surety shall, within fifteen (15) days after the written notice of termination for cause has been served upon the Contractor and the surety or its authorized agents, assume the obligations of the Contractor for the Work or that portion of the Work which the Owner has ordered the Contractor to discontinue and may:
- (1) perform the Work with forces employed by the surety;
  - (2) with the written consent of the Owner, tender a replacement contractor to take over and perform the Work, in which event the surety shall be responsible for and pay the amount of any costs required to be incurred for the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or
  - (3) with the written consent of the Owner, tender and pay to the Owner in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming Work, and compensate the Owner for any other loss sustained as a result of Contractor's default.

In the event of termination for cause involving Clause (b)(1) or (b)(2), the Surety shall assume the Contractor's place in all respects, and the amount of funds remaining unpaid under the Contract shall be paid by the Owner for all Work performed by the surety or the replacement contractor in accordance with the terms of the Contract Documents, subject to any rights of the Owner to deduct any costs, damages, or liquidated or actual damages that the Owner may have incurred, including but not limited to additional fees and expenses of the Engineer and attorneys fees, as a result of such termination.

- (c) The balance of the Contract Sum remaining at the time of the Contractor's default and of the termination shall become due and payable to the surety as the Work progresses, subject to all of the terms, covenants, and conditions of the Contract Documents. If the surety does not, within the time specified in Subparagraph 13.3(b), exercise its obligation to assume the obligations of the Contract, or that portion of the Contract which the Owner has ordered the

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Contractor to discontinue, then the Owner shall have the power to complete the Work by contract or otherwise, as it may deem necessary. The Contractor agrees that the Owner shall have the right to take possession of or use any or all of the materials, plant, tools, equipment, supplies, and property of every kind provided by the Contractor for the purpose of the Work, and to procure other tools, equipment, labor, and materials for the completion of the Work, and to charge to the account of the Contractor the expenses of completion and labor, materials, tools, equipment, and incidental expenses. The expenses incurred by the Owner to complete the Work shall be deducted by the Owner out of the balance of the Contract Sum remaining unpaid to or unearned by the Contractor. The Contractor and the surety shall be liable to the Owner for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other costs, damages, expenses (including but not limited to additional fees of the Engineer and attorney's fees), and liquidated or actual damages incurred as a result of the termination.

- (d) The Owner shall not be required to obtain the lowest bid for the Work of completing the Contract as described in Subparagraph 13.3(c), but the expenses to be deducted from the Contract Sum shall be the actual cost of such Work. In case the Owner's expense is less than the sum which would have been payable under the Contract, if the same had been completed by the Contractor, then the Owner may pay to the Contractor (or the Surety, in the event of a complete termination for cause) the difference in the cost, provided that the Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such expenses for completion shall exceed the amount which would have been payable under the Contract if the same had been completed by the Contractor, then the Contractor and his Sureties shall pay the amount of the excess to the Owner on notice from the Owner for excess due. When only a particular part of the Work is being carried on by the Owner by contract or otherwise under the provisions of this Subparagraph, the Contractor shall continue the remainder of the Work in conformity with the terms of the Contract, and in such manner as not to hinder or interfere with the performance of workmen employed and provided by the Owner.
- (e) The right to terminate this Contract for the convenience of the Owner (including but not limited to nonappropriation of funding) is expressly retained by the Owner. In the event of termination for convenience, the Owner shall deliver at least ten (10) days advance written notice of termination for convenience to the Contractor. Upon the Contractor's receipt of such written notice, the Contractor shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work in place. The Contractor shall then be reimbursed by the Owner in accordance with the terms and provisions of the Contract Documents, not to exceed actual labor costs incurred, materials stored at the Project site or away from the Project site as approved by the Owner but not yet paid for, plus actual, reasonable, and documented termination charges, if any, paid by the Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents to the date of termination for convenience. No amount shall ever be due to the Contractor for lost or anticipated profits.

### 13.4 TEMPORARY SUSPENSION OF THE WORK

- (a) The Work or any portion of the Work may be temporarily suspended by the Owner immediately upon written notice to the Contractor for any reason, including but not limited to:
  - (1) the causes described in Clauses 13.1(a)(1) through (a)(10) above;

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- (2) where other provisions in the Contract Documents require or permit temporary suspension of the Work;
  - (3) situations where the Work is threatened by, contributes to, or causes an immediate threat to public health, safety, or security; or
  - (4) other unforeseen conditions or circumstances.
- (b) The Contractor shall immediately resume the temporarily suspended Work when ordered in writing by the Owner to do so. The Owner shall not under any circumstances be liable for any claim of the Contractor arising from a temporary suspension due to a cause described in Clause (a)(1) above; provided, however, that in the case of a temporary suspension for any of the reasons described under Clauses (a)(2) through (a)(4), where the Contractor is not a contributing cause of the suspension under one of those Clauses or where the provision of the Contract Documents in question specifically provides that the suspension is at no cost to the Owner, the Owner will make an equitable adjustment for the following items, provided that a claim is properly made by the Contractor under Subparagraph 4.3 of these General Conditions:
- (1) an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension as determined by the Engineer and the Owner;
  - (2) an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable costs of properly protecting any Work that is finished or partially finished during the period of the temporary suspension (no profit and overhead shall be allowed on top of these costs); and
  - (3) if it becomes necessary to move equipment from the Project site and then return it to the Project site when the Work is ordered to be resumed, an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable cost of these moves; provided, however, that no adjustment shall be due if the equipment is moved to another Project site of the Owner.

## **ARTICLE 14 MISCELLANEOUS PROVISIONS**

### **14.1 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS**

- (a) This Contract shall be governed by the laws and case decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.
- (b) This Contract is entered into subject to and controlled by the Charter and ordinances of the City of Denton and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. The Contractor shall, during the performance of the Work, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

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### 14.2 SUCCESSORS AND ASSIGNS

The Owner and the Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the promises, covenants, terms, conditions, and obligations contained in the Contract Documents. The Contractor shall not assign, transfer, or convey its interest or rights in the Contract, in part or as a whole, without written consent of the Owner. If the Contractor attempts to make an assignment, transfer, or conveyance without the Owner's written consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract Documents. The Owner shall not assign any portion of the Contract Sum due or to become due under this Contract without the written consent of the Contractor, except where assignment is compelled or allowed by court order, the terms of the Contract Documents, or other operation of law.

### 14.3 WRITTEN NOTICE

Except as otherwise provided in Article 16, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid to the Project Manager or Superintendent of either party, or to an officer, partner, or other designated representative of either party. Mailed notices shall be addressed to the parties at an address designated by each party, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

### 14.4 RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY OWNER

(a) The duties and obligations imposed on the Contractor by the Contract Documents and the rights and remedies available to the Owner under the Contract Documents shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or made available by law.

(b) No action or failure to act by the Owner shall constitute a waiver of a right afforded the Owner under the Contract Documents, nor shall any action or failure to act by the Owner constitute approval of or acquiescence in a breach of the Contract by Contractor, except as may be specifically agreed in writing by Change Order or Supplemental Agreement.

### 14.5 INTEREST

The Owner shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to Paragraph 9.6(a) of these General Conditions.

### 14.6 OFFICERS OR EMPLOYEES OF THE OWNER NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF THE OWNER

No officer or employee of the Owner shall have a financial interest, direct or indirect, in any Contract with the Owner, or be financially interested, directly or indirectly, in the sale to the Owner of any land, materials, supplies or services, except on behalf of the Owner as an officer or employee. Any violation of this article shall constitute malfeasance in office, and any officer or employee of Owner guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with the Owner shall render the Contract involved voidable by the Owner's City Manager or City Council.

## **EXHIBIT 1**

### **14.7 VENUE**

This Contract is deemed to be performed in Denton County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in Denton County, Texas.

### **14.8 INDEPENDENT CONTRACTOR**

In performing the Work under this Contract, the relationship between the Owner and the Contractor is that of an independent contractor. The Contractor shall exercise independent judgment in performing the Work and is solely responsible for setting working hours, scheduling or prioritizing the Work flow and determining the means and methods of performing the Work, subject only to the requirements of the Contract Documents. No term or provision of this Contract shall be construed as making the Contractor an agent, servant, or employee of the Owner, or making the Contractor or any of the Contractor's employees, agents, or servants eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which the Owner provides to its employees.

### **14.9 NONDISCRIMINATION**

As a condition of this Contract, the Contractor covenants that he will take all necessary actions to insure that, in connection with any work under this Contract, the Contractor and its Subcontractors will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. The Contractor shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, the Contractor shall keep, retain and safeguard all records relating to his Contract or Work performed thereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of the Owner, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

### **14.10 GIFTS TO PUBLIC SERVANTS**

- (a) The Owner may terminate this Contract immediately if the Contractor has offered, conferred, or agreed to confer any benefit on a City of Denton employee or official that the City of Denton employee or official is prohibited by law from accepting.
- (b) For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.
- (c) Notwithstanding any other legal remedies, the Owner may require the Contractor to remove any employee of the Contractor from the Project who has violated the restrictions of this Article or any similar State or Federal law, and obtain reimbursement for any expenditures made to the Contractor as a result of the improper offer, agreement to confer, or conferring of a benefit to a City of Denton employee or official.

### **ARTICLE 15 RIGHT TO AUDIT CONTRACTOR'S RECORDS**

By execution of the Building Construction Services Agreement, the Contractor grants the Owner the right to audit, at the Owner's election, all of the Contractor's records and billings relating to the performance of the Work under the Contract Documents. The Contractor agrees to retain its Project records for a minimum of five (5) years following completion of the Work. The Owner agrees that it will exercise the right to audit only at reasonable hours. City may review any and all of the services

## EXHIBIT 1

performed by Contractor under this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City's rights as may be disclosed by an audit under this section.

### **ARTICLE 16 NOTICE OF CONTRACT CLAIM**

This Contract is subject to the provisions of the Denton City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Contractor shall comply with the requirements of this ordinance as a precondition of any litigation relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

**Should a conflict arise between the PO, RFP document, supplier terms, or contract; the terms and conditions set forth in the negotiated contract shall prevail.**

## EXHIBIT 1

### Exhibit "C" INSURANCE REQUIREMENTS AND WORKERS' COMPENSATION REQUIREMENTS

*Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.*

#### STANDARD PROVISIONS:

*Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.*

*As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.*

*All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:*

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- VII or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:
  - Name as Additional Insured the City of Denton, its Officials, Agents, Employees and volunteers.
  - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

## EXHIBIT 1

- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.
- Concerning the insurance to be furnished by the Contractor, it is a condition precedent to acceptability that:
  - (1) All policies must comply with the applicable requirements and special provisions of Attachment A.
  - (2) Any policy evidenced by a certificate of insurance or submitted for review shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements set forth herein, and the Owner's decision regarding whether any policy contains such provisions, contrary to this requirement, shall be final.
- The Contractor agrees to the following special provisions:
  - (1) The Contractor hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against the Owner, it being the intention that the insurance policies shall protect all parties to the Contract and be primary coverage for all losses covered by the policies. This waiver of subrogation shall be included, by endorsement or otherwise, as a provision of all policies required under Attachment A.
  - (2) Insurance companies issuing the insurance policies and the Contractor shall have no recourse against the Owner for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of Contractor.
  - (3) Approval, disapproval or failure to act by the Owner regarding any insurance supplied by the Contractor (or any Subcontractors) shall not relieve the Contractor of any responsibility or liability for damage or accidents as set forth in the Contract Documents. The bankruptcy, insolvency or denial of liability of or by the Contractor's insurance company shall likewise not exonerate or relieve the Contractor from liability.
  - (4) The Owner reserves the right to review the insurance requirements of this Attachment A during the effective period of this Contract and to modify insurance coverage's and their limits when deemed necessary and prudent by the Owner's Risk Management Division, based upon economic conditions, the recommendation of professional insurance advisors, changes in statutory law, court decisions or other relevant factors. The Contractor agrees to make any reasonable request for deletion, revision or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either party to this Contract or upon the underwriter of any such policy provisions). Upon request by the Owner, the Contractor shall exercise reasonable efforts to accomplish such changes in policy coverage's and shall pay the cost thereof.

## EXHIBIT 1

- (5) No special payments shall be made for any insurance policies that the Contractor and Subcontractors are required to carry; all are included in the stated Contract value.

### SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

*All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:*

[X] **A. General Liability Insurance:**

General Liability insurance with combined single limits of not less than \$1,000,000.00 shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability Form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:

- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

[X] **Automobile Liability Insurance:**

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than \$500,000 either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

**Satisfaction of the above requirement shall be in the form of a policy endorsement for:**

- any auto, or
- all owned hired and non-owned autos.

[X] **Workers' Compensation Insurance**

Contractor shall purchase and maintain Workers' Compensation insurance which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's Liability limits of at least \$100,000 for each accident, \$100,000 per each employee, and a \$500,000 policy limit for occupational disease. The City need not be named as an "Additional Insured" but the insurer shall agree to waive all rights of subrogation against the City, its officials, agents, employees and volunteers for any work performed for the City by the Named Insured. For building or construction projects, the Contractor shall comply with the provisions of Attachment 1 in accordance with §406.096 of the Texas Labor Code and rule 28TAC 110.110 of the Texas Workers' Compensation Commission (TWCC).

## EXHIBIT 1

### **Owner's and Contractor's Protective Liability Insurance**

The Contractor shall obtain, pay for and maintain at all times during the prosecution of the work under this contract, an Owner's and Contractor's Protective Liability insurance policy naming the City as insured for property damage and bodily injury which may arise in the prosecution of the work or Contractor's operations under this contract. Coverage shall be on an "occurrence" basis and the policy shall be issued by the same insurance company that carries the Contractor's liability insurance. Policy limits will be at least \$500,000.00 combined bodily injury and property damage per occurrence with a \$1,000,000.00 aggregate.

### **Fire Damage Legal Liability Insurance**

Coverage is required if Broad form General Liability is not provided or is unavailable to the contractor or if a contractor leases or rents a portion of a City building. Limits of not less than \_\_\_\_\_ each occurrence are required.

### **Professional Liability Insurance**

Professional liability insurance with limits not less than \$1,000,000.00 per claim with respect to negligent acts, errors or omissions in connection with professional services is required under this Agreement.

## EXHIBIT 1

**Builders' Risk Insurance**

Builders' Risk Insurance, on an All-Risk form for 100% of the completed value shall be provided. Such policy shall include as "Named Insured" the City of Denton and all subcontractors as their interests may appear.

**Commercial Crime**

Provides coverage for the theft or disappearance of cash or checks, robbery inside/outside the premises, burglary of the premises, and employee fidelity. The employee fidelity portion of this coverage should be written on a "blanket" basis to cover all employees, including new hires. This type insurance should be required if the contractor has access to City funds. Limits of not less than \$\_\_\_\_\_ each occurrence are required.

**Additional Insurance**

Other insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Specific Conditions" of the contract specifications.

**Umbrella Liability Insurance**

Depending on the size of the project, the City may require the Contractor to obtain, pay for, and maintain umbrella liability insurance during the Contract term, insuring Contractor for an amount of not less than \$3,000,000 per occurrence combined limit for Bodily Injury (including death) and Property Damage, that follows form and applies in excess of the primary coverage required hereinabove. The Owner and Engineer shall be named as additional insureds using the broadest form of endorsement available, with such status extended to include the extension of the completed operations coverage as described in this Attachment. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

## EXHIBIT 1

### ATTACHMENT A

#### [X] Workers' Compensation Coverage for Building or Construction Projects for Governmental Entities

##### A. Definitions:

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
  - 1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
  - 2. no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

## EXHIBIT 1

- F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
  - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
  - 2. provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
  - 3. provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - 4. obtain from each other person with whom it contracts, and provide to the contractor:
    - a. a certificate of coverage, prior to the other person beginning work on the project; and
    - b. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
  - 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
  - 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

## EXHIBIT 1

- J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
  
- K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

**EXHIBIT 1**

**Exhibit "D"  
PERFORMANCE BOND**

Bond#3375534

STATE OF TEXAS           §

COUNTY OF DENTON       §

KNOW ALL MEN BY THESE PRESENTS: That Durable Specialties, Inc. whose address is 2302 Paddock Way Dr Grand Prairie, TX\* hereinafter called Principal, and Great American Insurance Company of New York a corporation organized and existing under the laws of the State of NY, and fully authorized to transact business in the State of Texas, as Surety, are held and firmly bound unto the City of Denton, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter called Owner, in the penal sum of Two Hundred and Fifty Thousand and no/100 DOLLARS (\$250,000.00), in lawful money of the United States, to be paid in Denton County, Texas, for the payment of which sum well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

\*75050

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract, identified by Ordinance Number 2014- 089, with the City of Denton, the Owner, dated the 1 day of April A.D. 2014, a copy of which is hereto attached and made a part hereof, for RFP # 5442 Construction of Traffic Intersections,

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the Plans, Specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Owner, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of final completion and final acceptance of the Work by the Owner; and, if the Principal shall fully indemnify and save harmless the Owner from all costs and damages which Owner may suffer by reason of failure to so perform herein and shall fully reimburse and repay Owner all outlay and expense which the Owner may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

**EXHIBIT 1**

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Denton County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such surety, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in four copies, each one of which shall be deemed an original, this the 1 day of April, 2014. ✓

ATTEST:

BY: Carol Ann Richter  
SECRETARY

PRINCIPAL

Durable Specialties, Inc.  
BY: Jeffrey C. Bryan  
PRESIDENT ✓

ATTEST:

BY: [Signature]

SURETY:

Great American Insurance Company of New York  
BY: [Signature]  
ATTORNEY-IN-FACT Jack M. Crowley ✓

The Resident Agent of the Surety in Denton County, Texas for delivery of notice and service of the process is:

NAME: Southwest Assurance Group, Inc./ Bret Tomlinson  
STREET ADDRESS: 124 Old Town Blvd., #200, Argyle, TX 76226

(NOTE: Date of Payment Bond must be date of Contract. If Resident Agent is not a corporation, give a person's name.)

OK  
4/1/14  
SP

EXHIBIT 1

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK

New York

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than FOUR

No. 0 19950

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK, a corporation organized and existing under and by virtue of the laws of the State of New York, does hereby nominate, constitute and appoint the person or persons named below its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Table with 3 columns: Name, Address, Limit of Power. Rows include JACK M. CROWLEY, STEVEN R. FOSTER, PATRICIA A. SMITH, and MARIE PERRYMAN.

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF, the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 29TH day of NOVEMBER, 2012.

Attest

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK



Signature of Assistant Secretary

Signature of David C. Kitchin, Divisional Senior Vice President

DAVID C. KITCHIN (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON-ss:

On this 29TH day of NOVEMBER, 2012, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company of New York, the Company described in and which executed the above instrument; that he knows the seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



KAREN L. GROSHEIM NOTARY PUBLIC, STATE OF OHIO MY COMMISSION EXPIRES 02-20-16

Signature of Karen L. Grosheim

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company of New York by unanimous written consent dated May 14, 2009.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company of New York, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of May 14, 2009 have not been revoked and are now in full force and effect.

Signed and sealed this 1st day of April

Signature of Stephen C. Beraha, Assistant Secretary, dated 2014



Assistant Secretary

Handwritten note: OK 10/20/14 SP

**EXHIBIT 1**

**Exhibit "D"  
PAYMENT BOND**

Bond#3375534

STATE OF TEXAS §

COUNTY OF DENTON §

KNOW ALL MEN BY THESE PRESENTS: That Durable Specialties, Inc., whose address is 2302 Paddock Way Drive, Grand Prairie, TX 75050, hereinafter called Principal, and Great American Insurance Co of NY, a corporation organized and existing under the laws of the State of Texas, and fully authorized to transact business in the State of Texas, as Surety, are held and firmly bound unto the City of Denton, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter called Owner, and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon, the building or improvements hereinafter referred to, in the penal sum of Two Hundred and Fifty Thousand and no/100 DOLLARS (~~\$250,000.00~~) in lawful money of the United States, to be paid in Denton, County, Texas, for the payment of which sum well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract, identified by Ordinance Number 2014- 089, with the City of Denton, the Owner, dated the 1 day of April A.D. 2014, a copy of which is hereto attached and made a part hereof, for RFP# 5442-Construction of Traffic Control Intersections.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in said Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed on this Bond, exclusive venue shall lie in Denton County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc.

**EXHIBIT 1**

PROVIDED FURTHER, that if any legal action be filed upon this Bond, exclusive venue shall lie in Denton County, State of Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, or to the Plans, Specifications, Drawings, etc.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Denton County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in four copies, each one of which shall be deemed an original, this the 1 day of April, 2014. ✓

ATTEST:

PRINCIPAL

BY: Carol Ann Richter  
SECRETARY

Durable Specialties, Inc.  
BY: Jeffrey C. Bryson ✓  
PRESIDENT

ATTEST:

SURETY

BY: [Signature]

Great American Insurance Company of New York  
BY: [Signature] ✓  
ATTORNEY-IN-FACT Jack M Crowley

The Resident Agent of the Surety in Denton County, Texas for delivery of notice and service of the process is:

NAME: Southwest Assurance Group, Inc., / Bret Tomlinson

STREET ADDRESS: 124 Old Town Blvd., #200, Argyle, TX 76226

(NOTE: Date of Performance Bond must be date of Contract. If Resident Agent is not a corporation, give a person's name.)

OK  
5/16/2014  
SP

EXHIBIT 1

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK ✓

New York

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than FOUR

No. 0 19950

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK, a corporation organized and existing under and by virtue of the laws of the State of New York, does hereby nominate, constitute and appoint the person or persons named below its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
JACK M. CROWLEY ✓	PATRICIA A. SMITH	ALL
STEVEN R. FOSTER	MARIE PERRYMAN	\$75,000,000.00
	ADDISON, TEXAS	

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF, the GREAT AMERICAN INSURANCE COMPANY OF NEW YORK has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 29TH day of NOVEMBER, 2012.

Attest

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK



*My L C B*

Assistant Secretary

*David C. Kitchin*

Divisional Senior Vice President

DAVID C. KITCHIN (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON-ss:

On this 29TH day of NOVEMBER, 2012, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company of New York, the Company described in and which executed the above instrument; that he knows the seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



KAREN L. GROSHEIM  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES 02-20-16

*Karen L Grosheim*

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company of New York by unanimous written consent dated May 14, 2009.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company of New York, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of May 14, 2009 have not been revoked and are now in full force and effect.

Signed and sealed this 1st day of April, 2014 ✓



*My L C B*

Assistant Secretary

OK  
stebma  
SP

**RFP #5442**

**CONSTRUCTION OF TRAFFIC  
CONTROL INTERSECTIONS  
FOR THE CITY OF DENTON**

## City of Denton: RFP 5442

### Statement of the Contractor's Understands of the Project Requirements

- It is Durable Specialties, Inc. understanding we will be providing a turnkey construction of new traffic signals, modification to existing traffic signals and span wire traffic signal installations. Pavement markings to be performed by others.
- Installation of traffic signals will be on a work order basis with a work.
- The contract is for one year with an option for renewal after one year.
- The goal is to perform installation of traffic signals in a timely manner and to the standards and expectations of the City of Denton.
- The unique and long lead items will be supplied by the City of Denton; i.e. controller cabinets, vehicle detection equipment, preemption equipment, communication equipment, surveillance equipment, signal housings & LEDs, traffic signal pole assemblies and etc.
- Durable Specialties, Inc. will supply the concrete, conduit, wire, cable, pull boxes, signal head mounting hardware, sign mounting hardware, electrical services, wood poles and down guys where indicated by their corresponding pay item.

## City of Denton: RFP 5442

### Organization

A. Durable Specialties, Inc.

**Physical Address:**

2302 Paddock Way Drive  
Grand Prairie, TX  
75050

**Mailing Address:**

PO BOX 535969  
Grand Prairie, TX  
75053-5969

B. Durable Specialties, Inc. has been in business since 1984 as a traffic signal contractor providing turnkey traffic signal installation for North Texas Municipalities and TxDot.

C. Business Profile:

- 1) Corporation
- 2) Established in 1984, 30 years doing business
- 3) 65 Employees
- 4) Specializing in traffic signal installation
- 5) 972-296-6324 Phone; 972-780-7411 Fax
- 6) 30 Years in business
- 7) Not Applicable
- 8) Single office location
- 9) Single office location
- 10) We provide turnkey traffic signal installation and own all of own equipment to provide this service.
- 11) Drew Shipman; 817-401-3070 Cell; [drew@durablespecialties.com](mailto:drew@durablespecialties.com)

Attached is our previous work experience and references.

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2007		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 215,250.00	TRAFFIC SIGNAL	2007/702	AUSTIN 183A - TURNPIKE	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 219,500.00	TRAFFIC SIGNAL SYSTEM UPGRADE	2007/704	CITY OF DESOTO VARIOUS LOCATIONS	CITY OF DESOTO 211 E. PLEASANT RUN RD DESOTO, TEXAS 75115
\$ 102,750.00	TRAFFIC SIGNAL	2007/706	GRAND PRAIRIE DORYN DR. & MAGNA CARTA	SPRING VALLEY CONSTRUCTION 10950 ALDER CIRCLE DALLAS, TEXAS 75238-1353
\$ 357,900.00	ADAPTIVE CONTROL SIGNAL SYS	2007/708	TYLER US 69	CITY OF TYLER PO BOX 2039 TYLER, TEXAS 75710
\$ 120,921.50	TRAFFIC SIGNAL	2007/710	SEAGOVILLE DIVIDEND DR. & POINT WEST BLVD	DUKE CONSTRUCTION 5495 BELTLINE RD #360 DALLAS, TEXAS 75254
\$ 122,750.00	TRAFFIC SIGNAL	2007/711	DENTON FM 407	ED BELL CONSTRUCTION PO BOX 540787 DALLAS, TEXAS 75354-0787
\$ 206,150.00	TRAFFIC SIGNAL	2007/712	DALLAS N. GALLOWAY AVE TO BELTLINE RD	REBCON, INC. 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 107,500.00	TRAFFIC SIGNAL	2007/714	WISE FM 51 & PRESKITT RD	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$ 201,149.20	TRAFFIC SIGNAL	207/720	TARRANT IH 30 & CENTER ST.	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 385,700.00	TRAFFIC SIGNAL	2007/721	TARRANT SH 199	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 4,234,419.95	TRAFFIC SIGNAL	2007/723	DALLAS VARIOUS LOCATIONS DART- CMGC-3 LINE NW-2, NW-3, NW-4	ARCHER WESTERN 2121 AVENUE J, #103 ARLINGTON, TEXAS 76006
\$ 299,800.00	TRAFFIC SIGNAL	2007/725	DALLAS NAAMAN SCHOOL RD	TRI-CON SERVICES, INC. 3010 W. MAIN ST. ROWLETT, TEXAS 75088
\$ 397,350.00	TRAFFIC SIGNAL	2007/729	WEATHERFORD MAIN ST. - DOWNTOWN	ED A. WILSON PO BOX 11423 FT. WORTH, TEXAS 76110-0423
\$ 103,600.00	TRAFFIC SIGNAL	2007/732	PLANO - VARIOUS LOC	JIM BOWMAN CONSTRUCTION 1111 SUMMIT AVE, #1 PLANO, TEXAS 75074
\$ 117,300.00	TRAFFIC SIGNAL IMPRVTS	2007/735	HOLLAND RD & BROAD STREET	L H LACY CONSTRUCTION PO BOX 541297 DALLAS, TEXAS

# EXHIBIT 1 DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2007		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 136,715.00	TRAFFIC SIGNAL MODIFY	2007/737	LUNA RD & VALLEY VIEW (RACETRAC)	JFG CONCRETE, INC. PO BOX 550 PRINCETON, TEXAS 75407
\$ 164,000.00	TRAFFIC SIGNAL	2007/739	SH 170 & PARK VISTA	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
\$ 123,300.00	TRAFFIC SIGNAL	2007/743	AMARILLO BLVD & LOWES LANE	BRAD DRAKE CONSTRUCTION 3737 LAMAR AVE, #700 PARIS, TEXAS 75462
\$ 666,720.00	TRAFFIC SIGNAL	2007/744	MOCKINGBIRD LANE	GIBSON & ASSOCIATES, INC. PO BOX 800579 BALCH SPRINGS, TEXAS 75180
\$ 101,000.00	TRAFFIC SIGNAL	2007/745	BU 287P & FM 157	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$ 117,453.00	STREET LIGHTS/ TRAFFIC SIGNALS	2007/746	TCCD SOUTH CAMPUS CAMPUS & JOE B RUSHING	ROEBUCK CONCRETE CONTRACTORS PO BOX 301 FT. WORTH, TEXAS 76101
\$ 462,568.80	TRAFFIC ISIGNALS	2007/751	FM 2499	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 2,835,000.00	TRAFFIC SIGNALS	2007/755	US 80	TXDOT - TYLER 15986 SH 155 TYLER, TEXAS 75703
\$ 254,500.00	RECONSTRUCT TRAFFIC SIGNALS	2007/757	VARIOUS LOCATIONS	CITY OF WACO PO BOX 2570 WACO, TEXAS 76072
\$ 334,800.00	TRAFFIC SIGNALS	2007/761	EXCHANGE PKWY TWIN CREEKS & SH 121	LACY CONSTRUCTION PO BOX 541297 DALLAS, TEXAS 75354
\$ 369,165.00	TRAFFIC SIGNAL IMPROVEMENTS	2007/762	SHADY OAKS & BRINKER	LACY CONSTRUCTION PO BOX 541297 DALLAS, TEXAS 75354
\$ 923,807.02	TRAFFIC SIGNAL INSTALL	2007/763	IH 30	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

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DURABLE SPECIALTIES, INC. WORK EXPERIENCE

MAJOR CONTRACTS 2008				
CONTRACT AMT	SCOPE OF WORK	YEAR/JOB #	LOCATED	NAME AND ADDRESS
\$ 644,378.30	TRAFFIC SIGNAL IMPROVEMENTS CITY OF FRISCO	2008/801	PANTHER CREEK PKWY AND LEGACY DR.	MARIO SINACOLA & SONS PO BOX 2329 FRISCO, TEXAS 75034
\$ 103,400.00	TRAFFIC SIGNAL TXDOT KAUFMAN COUNTY	2008/805	SH 198	TEXAS STERLING 2100 N. HWY 360, #106A GRAND PRAIRIE, TEXAS 75050
\$ 130,375.00	TRAFFIC SIGNAL CITY OF ARLINGTON	2008/806	ROUTH CREEK PKWY	L. H. LACY PO BOX 541297 DALLAS, TEXS 75354
\$ 142,000.00	TRAFFIC SIGNAL NTTA	2008/807	BRIARGROVE TO RAILROAD NORTH TO PGBT	REBCON 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 559,000.00	TRAFFIC SIGNAL	2008/808	VARIOUS LOCATIONS	CITY OF GRAND PRAIRIE 206 W. CHURCH ST. GRAN PRAIRIE, TEXAS 75050
\$ 454,250.00	TRAFFIC SIGNAL CITY OF ARLINGTON	2008/809	PLEASANT RIDGE RD.	L. H. LACY PO BOX 541297 DALLAS, TEXS 75354
\$ 111,000.00	TRAFFIC SIGNAL	2008/811	WINSCOTT RD. & OLD BENBROOK RD/BECKMAN DRIVE	CITY OF BENBROOK 911 WINSCOTT RD. BENBROOK, TEXAS 76126
\$ 413,022.00	TRAFFIC SIGNAL CITY OF RICHARDSON	2008/812	BELTLINE RD, ARAPAHO RD, CAMPBELL RD & COIT RD	REBCON 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 379,290.00	TRAFFIC SIGNAL TXDOT TARRANT	2008/819	SH 360 @ SH 180(DIVISION STREET)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 420,483.00	TRAFFIC SIGNAL TXDOT COLLIN	2008/821	FM 2934 (ELDORADO PKWY)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 651,165.00	TRAFFIC SIGNAL TXDOT DALLAS	2008/825	IH 30	TEXAS STERLING 2100 N. HWY 360, #106A GRAND PRAIRIE, TEXAS 75050
\$ 124,500.00	TRAFFIC SIGNAL TXDOT TARRANT	2008/826	SH 183	APAC-TEXAS, INC. PO BOX 1807 FT. WORTH, TEXAS 76101
\$ 899,397.00	TRAFFIC SIGNAL TXDOT DENTON	2008/827	FM 1171	GLENN THURMAN PO BOX 850842 MESQUITE, TEXAS 75185-0842
\$ 472,400.00	TRAFFIC SIGNAL CITY OF ARLINGTON	2008/828	STADIUM DR. - DIVISION STREET TO RANDOL MILL ROAD	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119
\$ 365,037.50	TRAFFIC SIGNAL CITY OF GRAND PRAIRIE	2008/829	MAYFIELD DR.	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2008		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 1,145,000.00	NON-SITE TXDOT DALLAS	2008/830	VARIOUS LOCATIONS	TXDOT - DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$ 656,000.00	TRAFFIC SIGNAL	2008/831	BARNETT RD & JOHNSON ROAD	TXDOT - WICHITA 1601 SOUTHWEST PKWY WICHITA FALLS, TEXAS 76302
\$ 328,000.00	TRAFFIC SIGNAL	2008/832	VARIOUS LOCATIONS	TXDOT - DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$ 125,600.00	TRAFFIC SIGNAL CITY OF DENTON	2008/835	TEASLEY LN & HICKORY CREEK	C D HENDERSON 1985 FOREST LANE GARLAND, TEXAS 75042
\$ 398,600.00	TRAFFIC SIGNAL TXDOT DALLAS	2008/837	MOUNTAIN CREEK PKWY	TEXAS STERLING 2100 N. HWY 360, #106A GRAND PRAIRIE, TEXAS 75050
\$ 168,500.00	VIDEO DETECTION	2008/838	VARIOUS LOCATIONS	CITY OF HALTOM CITY 4200 HOLLIS ST. HALTOM CITY, TEXAS 76111
\$ 471,009.00	TRAFFIC SIGNAL	2008/845	GEORGE BUSH TURNPIKE	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 167,192.13	TRAFFIC SIGNAL TXDOT DALLAS	2008/845	US 75 UNDERPASS @ PARKER RD	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 98,800.00	TRAFFIC SIGNAL CITY OF LEWISVILLE	2008/849	DENTON TAP RD @ HIGHLAND DR.	UNITED COMMERCIAL DEVELOPMENT 7001 PRESTON RD., #500 DALLAS, TEXAS 75205
\$ 148,700.00	TRAFFIC SIGNAL	2008/850	IH 20 (FM 3325/FM 1187)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 124,300.00	TRAFFIC SIGNAL	2008/852	BELKNAP ST & GROVE ST. GROVE ST. & WEATHERFORC ST.	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
\$ 383,500.00	TRAFFIC SIGNAL	2008/856	FM 544 - WOODBRIDGE CROSSING IMPRVMT	L. H. LACY PO BOX 541297 DALLAS, TEXS 75354
\$ 1,117,000.00	TRAFFIC SIGNAL	2008/857	IH 35E	TXDOT - DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$ 302,000.00	TRAFFIC SIGNAL	2008/858	SH 121 - NTTA	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2009		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 129,849.00	SIGNAL MODIFICATION CITY OF FORT WORTH	2009/901	W. 7TH & CURRIE ST.	CONATSER CONSTRUCTION 5327 WICHITA ST. FT. WORTH, TEXAS 76102
\$ 260,077.00	TRAFFIC SIGNAL TXDOT TARRANT COUNTY	2009/902	IH 20 (GREAT SOUTHWEST PARKWAY)	MCMAHON CONTRACTING PO BOX 153086 IRVING, TEXAS 75015-3086
\$ 302,700.00	TRAFFIC SIGNAL IMPROVEMENTS	2009/904	VARIOUS LOCATIONS	CITY OF NORTH RICHLAND HILSS 7200 A DICK FISHER DR. S NORTH RICHLAND HILLS, TEXAS 76182-0609
\$ 1,098,700.00	TRAFFIC SIGNAL TXDOT DALLAS	2009/906	LOOP 12	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 367,900.00	TRAFFIC SIGNAL SYSTEM IMPROVEMENTS	2009/910	VARIOUS LOCATIONS	TOWN OF ADDISON PO BOX 9010 ADDISON, TEXAS 75001-9010
\$ 149,000.00	TRAFFIC SIGNAL TXDOT PARKER COUNTY	2009/911	SH 171	PRATER EQUIPMENT CO., INC PO BOX 746 COMANCHE, TEXAS 76442
\$ 585,148.00	VITRUVIAN PARK PUBLIC INFRASTRUCTURE PHASE 1B TOWN OF ADDISON	2009/914	VITRUVIAN PARK	NORTH TEXAS CONTRACTING PO BOX 468 KELLER, TEXAS 76244
\$ 471,658.40	INSTALL 4 NEW TRAFFIC SIGNALS	2009/915	VARIOUS LOCATIONS	CITY OF ALLEN 305 CENTURY PARKWAY ALLEN, TEXAS 75013-8042
\$ 122,660.00	STREETSCAPE IMPROVEMENTS CITY OF DALLAS	2009/916	ELM ST - FROM AKARD TO ERVAY	TEXAS STANDARD CONSTRUCTION PO BOX 210768 DALLAS, TEXAS 75211
\$ 315,517.00	0213-PGB-06-CN-EN SECTION XXXI NTTA	2009/918	SOUTH OF MAIN ST. TO NORTH OF SHOR OF LAKE RAY HUBBARD	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 482,330.00	TRAFFIC SIGNAL DALLAS COUNTY	2009/919	BELTLINE RD TO WHEATLAND RD.,	CASH CONSTRUCTION CO., INC. PO BOX 1279 FLUGERVILLE, TEXAS 78691
\$ 122,820.00	TRAFFIC SIGNAL	2009/920	DEBBIE LANE @ BEN BARBER ACADEMY	CITY OF MANSFIELD 1200 E. BROAD ST. MANSFIELD, TEXAS 76063
\$ 121,120.00	INTERSECTION IMPROVEMENTS	2009/921	SARA JANE @ GREAT SOUTHWEST PARKWAY	MCMAHON CONTRACTING PO BOX 153086 IRVING, TEXAS 75015-3086
\$ 149,505.00	TRAFFIC SIGNAL TXDOT DALLAS	2009/922	FM 1382	REBCON, INC. 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
\$ 150,700.00	TRAFFIC SIGNAL CITY OF HURST	2009/924	W. PIPELINE RD @ FUTURE RD	AUI CONTRACTORS 4775 N. FREEWAY FT. WORTH, TEXAS 76106
\$ 1,016,435.20	REVERSIBLE LANE SYS	2009/927	ROAD TO SIX FLAGS, COLLINS & DIVISON ST.	CITY OF ARLINGTON 1011 W. MAIN ST. ARLINGTON, TEXAS 76013

# EXHIBIT 1 DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2009		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 169,819.45	INTERSECTION IMPRVTS PHASE 1B	2009/929	TOWN EAT BLVD & NORTH GALLOWAY AVE	JIM BOWMAN CONSTRUCTION 1111 SUMMIT AVE, #1 PLANO, TEXAS 75074
S 233,000.00	TRAFFIC SIGNAL INSTALL	2009/930	FM 1378 & COUNTRY CLUB DRIVE	L. H. LACY COMPANY, LTD. PO BOX 541297 DALLAS, TEXAS 75354-1297
S 590,113.80	TRAFFIC SIGNAL INSTALL AT 4 LOCATIONS	2009/931	RIDGEVIEW DR. & ALMA EXCHANGE PKWY & RIDGEVIEW DR. RIDGEVIEW DR. & WALNUT SPRINGS DR. EXCHANGE PKWY & TWIN CREEKS DR.	CITY OF ALLEN 305 CENTURY PARKWAY ALLEN, TEXAS 75013
S 128,807.50	TRAFFIC SIGNAL INSTALL	2009/937	SH 289 & LEGACY DR.	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
S 241,150.00	RED OAK RD STREET & UTILITY IMPROVEMENTS	2009/940	RED OAK RD & VARIOUS LOCATIONS	XIT PAVING & CONSTRUCTION 3934 S. HWY 287 WAXAHACHIE, TEXAS 75165
S 469,000.00	TRAFFIC SIGNAL INSTALLTATION	2009/944	VARIOUS LOCATIONS	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
S 102,000.00	TRAFFIC SIGNAL INSTALLATION	2009/946	US 180 & TOWN CREEK & UPPR (WB & EB)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

### DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2010 YEAR/JOB #	LOCATED	NAME AND ADDRESS
\$445,380.00	TRAFFIC SIGNAL INSTALL	2010/001	VARIOUS LOCATIONS	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
\$630,000.00	TRAFFIC SIGNAL INSTALL	2010/002	VARIOUS LOCATIONS IN GEORGETOWN	TXDOT - AUSTIN PO BOX 15426 AUSTIN, TEXAS 78761-5426
\$53,000.00	ANNUAL LOOP INSTALL	2010/003	VARIOUS LOCATIONS	CITY OF GARLAND 409 FOREST GATE GARLAND, TEXAS 75041
\$135,000.00	TRAFFIC SIGNAL INSTALL	2010/004	PLEASANT RUN RD	L. H. LACY COMPANY PO BOX 541297 DALLAS, TEXAS 75354-1297
\$73,000.00	TRAFFIC SIGNAL INSTALL	2010/005	ALSBURY BLVD & SUMMERCREST BLVD	CITY OF BURLESON 141 W. RENFRO ST. BURLESON, TEXAS 76028
\$82,000.00	TRAFFIC SIGNAL INSTALL	2010/006	BARR RD.	MCCLENDON CONSTRUCTION PO BOX 999 BURLESON, TEXAS 76097
\$105,960.00	TRAFFIC SIGNAL INSTALL	2010/007	FM 407 & CHIN CHAPEL	TISEO PAVING PO BOX 270040 DALLAS, TEXAS 75227-0040
\$219,375.00	TRAFFIC SIGNAL INSTALL	2010/008	OLD DECATUR TO BUSINESS 287	AUI CONTRACTORS, INC. 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$90,101.95	TRAFFIC SIGNAL INSTALL	2010/011	CEDAR SPRINGS - DALLAS LOVE FIELD	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$115,500.00	TRAFFIC SIGNAL INSTALL	2010/012	N. COUNTRY CLUB RD. & W. BROWN ST.	GLENN THURMAN PO BOX 850842 MESQUITE, TEXAS 75185-0842
\$132,000.00	TRAFFIC SIGNAL INSTALL	2010/013	US 380	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$192,000.00	TRAFFIC SIGNAL INSTALL	2010/014	VARIOUS LOCATIONS	CITY OF WACO PO BOX 2570 WACO, TEXAS 76702-2570
\$315,165.00	PAVING & DRAINING IMPROVEMENTS	2010/017	DIRKS RD - FROM BRYANT IRVIN RD TO HARRIS PKWY	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119
\$151,245.00	WAL-MART TRAF SIG IMPROVEMENTS	2010/018	EXCHANGE PKWY & WALMART DR	EMJ CORPORATION 5525 N. MACARTHUR BLVD, #400 IRVING, TEXAS 75038
\$828,000.00	TRAF SIGNAL INSTALL	2010/021	IH 30 & FERGUSON RD.	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$105,500.00	TRAF SIGNAL INSTALL	2010/023	CS (MONTFORT DR.)	MCPMAHON CONTRACTING PO BOX 153086 IRVING, TEXAS 75015-3086

# EXHIBIT 1 DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2010 YEAR/JOB #	LOCATED	NAME AND ADDRESS
\$938,300.00	PREVENTATIVE MAINTENANCE	2010/024	IH 35-E @ VARIOUS LOCATIONS	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$233,500.75	TRAFFIC SIGNAL INSTALL	2010/028	GRENNVILLE AVE & HIGH POINT TRAIL RD AND MCDERMOTT DR & SHALLOWATER DR	CITY OF ALLEN 305 CENTURY PKWY ALLEN, TEXAS 75013
\$760,234.00	TRAFFIC SIGNAL INSTALL	2010/30	FM 720 (ELDORADO PKWY)	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$1,358,000.00	2010 GRAND TASK ORDER CONSTRUCTION SVCS	2010/031	VARIOUS LOCATIONS	CITY OF FT. WORTH 5001 JAMES AVE, #301 FT. WORTH, TEXAS 76115
\$147,760.00	VIDEO IMAGE DETECTION	2010/032	FM 1171 @ VAR LOCATIONS	CITY OF LEWISVILLE PO BOX 299002 LEWISVILLE, TEXAS 75029-9002
\$198,400.00	VIVDS AT TEN LOCATIONS	2010/033	VARIOUS LOCATIONS	CITY OF LEWISVILLE PO BOX 299002 LEWISVILLE, TEXAS 75029-9002
\$354,000.00	TRAFFIC SIGNAL INSTALL	2010/039	SPRING VALLEY WIDENING	NORTH TEXAS CONTRACTING PO BOX 468 KELLER, TEXAS 76244
\$116,400.00	TRAFFIC SIGNAL INSTALL	2010/040	IH 35 AT HERTIAGE TRACE PKWY	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$1,255,000.00	NON-SITE SPECIFIC	2010/041	VARIOUS LOCATIONS	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313
\$137,000.00	INSTALLATION OF STREETLIGHTING	2010/042	GRENNVILLE FROM EXCHANGE PKW TO STACY ROAD	CITY OF ALLEN 305 CENTURY PKWY ALLEN, TEXAS 75013
\$365,735.00	TRAFFIC SIGNAL INSTALL	2010/045	ARKANSAS LANE REBUILD	JACKSON CONSTRUCTION 5112 SUN VALLEY DR. FT. WORTH, TEXAS 76119
\$415,900.00	CITY WIDE TRAFFIC SIGNAL IMPRVTS	2010/047	VARIOUS LOCATIONS	CITY OF BEDFORD 1813 RELIANCE PKWY BEDFORD, TEXAS 76021
\$105,000.00	TRAFFIC SIGNAL INSTALL	2010/048	CLAY RD	TOWN OF SUNNYVALE 127 COLLINS RD SUNNYVALE, TEXAS 75182
\$120,425.00	TRAFFIC SIGNAL INSTALL	2010/049	WEBB CHAPEL @ WALMART DRIVEWAY	EMJ CORPORATION 5525 N. MACARTHUR BLVD, #400 IRVING, TEXAS 75038
\$278,900.00	TRAFFIC SIGNAL INSTALL	2010/050	N. MAIN ST - PHASE 1	XIT PAVING & CONSTRUCTION 3934 S. HWY 287 WAXAHACHIE, TEXAS 75165

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

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P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

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### DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2011		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$408,849.00	TRAFFIC SIGNAL INSTALL	2011/101	RUFF SNOW DR. AT VARIOUS LOCATIONS	AUI CONTRACTORS, INC. 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$177,000.00	TRAFFIC SIGNAL INSTALL	2011/103	FM 741	ED BELL CONSTRUCTION PO BOX 540787 DALLAS, TEXAS 75354-0787
\$213,252.00	TRAFFIC SIGNAL INSTALL	2011/106	INWOOD IMPROVEMENTS	LEMCO CONSTRUCTION SERVICES 14131 MIDWAY RD, #600 ADDISON, TEXAS 75001
\$140,940.00	TRAFFIC SIGNAL INSTALL	2011/113	FM 1187	LONE STAR CONSTRUCTION 4320 WINDSOR CENTRE TRAIL, #500 FLOWER MOUND, TEXAS 75028
\$762,790.00	TRAFFIC SIGNAL INSTALL	2011/114	SOUTHEAST PKWY TO WEBB FERRELL	L H LACY COMPANY PO BOX 541297 DALLAS, TEXAS 75354-1297
\$405,000.00	TRAFFIC SIGNAL INSTALL	2011/115	FM 51	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$354,000.00	TRAFFIC SIGNAL INSTALL	2011/117	SH 34	AUI CONTRACTORS, INC. 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$201,700.00	TRAFFIC SIGNAL INSTALL	2011/120	VITRUVIAN WAY AT BELLA WAY	CPS CIVIL 1215 CREST LANE DR. DUNCANVILLE, TEXAS 75137
\$129,472.92	TRAFFIC SIGNAL INSTALL	2011/121	SH 183 / SH 121 INTERCHANGE	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$1,300,000.00	ADVANCED TRANSPORTATION MANAGEMENT SERVICES	2011/123	VARIOUS LOCATIONS	DFW AIRPORT 3003 S. SERVICE RD. DFW AIRPORT, TEXAS 75261
\$285,000.00	TRAFFIC SIGNAL INSTALL	2011/125	MEMORIAL DR & STANDRIDGE	CITY OF THE COLONY C/O HDR ENGINEERING, INC. 17111 PRESTON RD., #200 DALLAS. TEXAS 75248-1232
\$112,000.00	TRAFFIC SIGNAL INSTALL	2011/126	SH 199	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$182,000.00	TRAFFIC SIGNAL INSTALL	2011/127	BU 190F @ FM 3219	TXDOT - WACO 100 S. LOOP DR. WACO, TEXAS 76704-2858
\$226,000.00	SIGNAL & INTERSECTION IMPROVEMENTS	2011/128	CANNON @ BROAD & CANNON @ MATLOCK	MCCLENDON CONSTRUCTION, INC. PO BOX 996 BURLESON, TEXAS 76097
\$104,500.00	TRAFFIC SIGNAL IMPROVEMENTS	2011/129	ELDORADO @ HILLCREST & ELDORADO @ COIT RD	CITY OF FRISCO 6101 FRISCO SQUARE BLVD, 3RD FLOOR FRISCO, TEXAS 75034

# EXHIBIT 1 DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2011		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$483,350.00	IH 635 MANAGED LANES	2011/130	VARIOUS LOCATIONS	TRINITY INFRASTRUCTURE, LLC 5520 I-635 EAST, #150 DALLAS, TEXAS 75240
\$140,000.00	TRAFFIC SIGNAL INSTALL	2011/131	FM 51	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
\$222,000.00	TRAFFIC SIGNAL IMPROVEMENTS	2011/136	GASTON AVE & WASHINGTON AVE	CPS CIVIL 1215 CREST LANE DR. DUNCANVILLE, TEXAS 75137
\$150,900.00	RICHLAND HILLS TRE STATION ACCESS ENHANCEMENT	2011/137	HANDLEY-EDERVILLE @ BURNS RD/TRINITY BLVD	NORTH STAR CONSTRUCTION, INC. 3210 JOYCE DR. FT. WORTH, TEXAS
\$142,000.00	ST. LIGHT IMPROVEMENTS	2011/140	GIFFORD ST. & BAGDAD RD.	HAYDEN BUILDING CORPORATION 4640 E. COTTON GIN LOOP PHOENIZ, AZ 85040
\$143,144.00	TRAF SIG INSTALL & LEFT TURN LAN IMPRVTS	2011/144	UPTOWN BLVD & S. WALMART & FM 1382	CITY OF CEDAR HILL PO BOX 96 CEDAR HILL, TEXAS 75106
\$301,300.00	LAKE RIDGE PKWY WIDENING	2011/146	LAKE RIDGE PKWY @ VARIOUS LOCATIONS	MCPMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015-3086
\$539,530.00	TRAFFIC SIGNAL INSTALL	2011/147	SH 171 - FM 1884 TO IH 20	JAY MILLS CONTRACTING, INC. PO BOX 1669 STEPHENVILLE, TEXAS 76401
\$104,000.00	9500476; DFW AIRPORT CROSS UNDER #1	2011/148	NORTH SERVICE RD @ CROSS UNDER #1	NORTH TEXAS CONTRACTING, INC. PO BOX 468 KELLER, TEXAS 76244
\$428,000.00	TRAFFIC SIGNAL INSTALL AT 4 LOCATIONS	2011/150	VARIOUS LOCATIONS	CITY OF GRAND PRAIRIE PO BOX 534045 GRAND PRAIRIE, TEXAS 75053-4045
\$129,177.00	COOKS CHILDREN'S MEDICAL CENTER	2011/151	6 TH & 7TH STREET @ PENNSYLVANIA AVE	CONATSER CONSTRUCTION TX., L.P. PO BOX 15448 FT. WORTH, TEXAS 76119
\$138,596.25	INTERSECTION IMPRVTS	2011/154	MATLOCK ROAD	MCPMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015
\$330,000.00	TRAFFIC SIGNAL INSTALL	2011/155	FM 407	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$178,000.00	TRAFFIC SIGNAL INSTALL	2011/156	NORTH BEACH ST.	CONATSER CONSTRUCTION TX., L.P. PO BOX 15448 FT. WORTH, TEXAS 76119

# EXHIBIT 1

# DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

### DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2012		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 197,000.00	TRAFFIC SIGNAL INSTALL	2012 / 203	WEST BERRY STREET	MC CLENDON CONSTRUCTION PO BOX 996 BURLESON, TEXAS 76097
S 98,000.00	INTERSECTION IMPROVEMENTS	2012 / 205	PARKER RD, SPRING VALLEY PKWY & JUPITER RD	JIM BOWMAN CONSTRUCTION 2716 S. RIGSBEE DRIVE PLANO, TEXAS 75074
S 194,204.00	WEST BROWN STREET IMPROVEMENTS	2012 / 207	COUNTRY CLUB RD TO NORTH BALLARD AVE	MCMAHON CONTRACTING, LP PO BOX 153086 IRVING, TEXAS 75015
S 104,500.00	TRAFFIC SIGNAL INSTALL	2012 / 208	MILITARY PARKWAY AT CEDAR LAKE DRIVE	LEMCO CONSTRUCTION SERVICES 14131 MIDWAY ROAD ADDISON, TEXAS 75001
S 173,000.00	PRESTON ROAD ADA IMPROVEMENTS	2012 / 210	GAYLORD PKWY, WARREN PKWY, LEBANON RD WADE BLVD	CITY OF FRISCO 6101 FRISCO SQUARE BLVD FRISCO, TEXAS 75034
S 349,600.00	PLEASANT RUN RD RECONSTRUCTION PH 4B (PW06-0039)	2012 / 212	PLEASANT RUN RD	L.H. LACY COMPANY, LTD. 1880 CROWN ROAD DALLAS, TEXAS 75234
S 162,447.95	BLUE LINE EXPANSION	2012 / 213	SH 66 @ MARTIN	AUSTIN BRIDGE & ROAD 4817 ROWLETT ROAD ROWLETT, TEXAS 75088
S 150,000.00	ROADWAY ILLUMINATION	2012 / 214	NORTH BEACH ST. KELLERY HICKS TO TIMBERLAND BLVD	JLB CONTRACTING, LP PO BOX 24131 FT. WORTH, TEXAS 76124
S 180,000.00	TRAFFIC SIGNAL INSTALL	2012 / 217	W. WINDSOR DRIVE	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015
S 120,000.00	TRAFFIC SIGNAL INSTALL	2012 / 218	BU 377H @ RESORT CONFERENCE CENTER	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
S 140,000.00	ILLUMINATION & TRAFFIC SIGNAL INSTALL	2012 / 221	JOHN HICKMAN PARKWAY FROM WEST OF PRESTON ROAD TO OHIO DRIVE	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015
S 215,000.00	TRAFFIC SIGNAL INSTALL	2012 / 222	DFW AIRPORT CROSSUNDER #2	PHILLIPS MAY CORPORATION 4861 SHARP STREET DALLAS, TEXAS 75247
S 202,000.00	TRAFFIC SIGNAL INSTALL	2012 / 224	SACHSE ROAD AT MILES/ BRYAN STREET	CITY OF SACHSE 3815-B SACHSE ROAD SACHSE, TEXAS 75048
S 108,000.00	TRAFFIC SIGNAL INSTALL	2012 / 225	US 67 (CR 209 E. OF ALVARADO)	TXDOT - TARRANT PO BOX 6868 FT. WORTH, TEXAS 76115
S 97,700.00	TEMP & PERM TRAFFIC SIGNAL INSTALL	2012 / 228	DART ORANGE LINE I-3 FREEPORT PARKWAY @ AIRFIELD DRIVE	MASS ELECTRIC CONSTRUCTION COMPANY 8700 FREEPORT PARKWAY, #160 IRVING, TEXAS 75063

# EXHIBIT 1 DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2012		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 129,849.75	SAW CUT LOOPS	2012 / 229	SH 180	APAC-TEXAS, INC 2121 IRVING BLVD DALLAS, TEXAS 75207
S 437,000.00	TEMP & PERM TRAFFIC SIGNAL INSTALL	2012 / 231	SH 26	AUI CONTRACTORS, LP 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
S 147,074.00	TRAFFIC SIGNAL INSTALL	2012 / 233	US 180	ED BELL CONSTRUCTION 10605 HARRY HINES BLVD DALLAS, TEXAS 75220-2634
S 156,000.00	TRAFFIC SIGNAL INSTALL	2012 / 236	N. TARRANT PKWY @ KELLER SMITH	L H LACY COMPANY, LTD. PO BOX 541297 DALLAS, TEXAS 75354-1297
S 456,000.00	TEMP & PERM TRAFFIC SIGNAL INSTALL	2012 / 237	FM 1187	MCMAHON CONTRACTING, L.P. PO BOX 153086 IRVING, TEXAS 75015

**EXHIBIT 1**

**DURABLE SPECIALTIES, INC.**

**Exhibit "F"**

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

**DURABLE SPECIALTIES, INC. WORK EXPERIENCE**

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2013		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
\$ 1,679,500.00	TRAFFIC SIGNAL & ILLUMINATION MODIFICATION	2013 / 301	US 287 TO MILLER AVENUE	JACKSON CONSTRUCTION, LTD. 5112 SUN VALLEY DRIVE FT. WORTH, TEXAS 76119
\$ 129,000.00	TRAFFIC SIGNAL INSTALL	2013 / 302	FM 1187	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
\$ 363,000.00	PERM & TEMP TRAFFIC SIGNAL INSTALL	2013 / 304	INDEPENDENCE & CUSTER	TISEO PAVING COMPANY PO BOX 270040 DALLAS, TEXAS 75227
\$ 99,628.00	TRAFFIC SIGNAL MODIFY	2013 / 305	FM 156 @ BASSWOOD BLVD	D R HORTON , INC 6751 NORTH FREEWAY FT. WORTH, TEXAS 76131
\$ 417,155.00	LIGHTING PHASE II & PARKING LOT LIGHTS	2013 / 306	MAIN ST @ LAKESHORE DR. AND BEARD PARK	XIT PAVING & CONSTRUCTION, INC. 3934 S. HIGHWAY 287 WAXAHACHIE, TEXAS 75165
\$ 105,000.00	TRAFFIC SIGNAL INSTALL	2013 / 308	US 377	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
\$ 105,000.00	TRAFFIC SIGNAL INSTALL	2013 / 310	ELDORADO PARKWAY (FM 2934) AT WAL-MART	CITY OF FRISCO 6101 FRISCO SQUARE BLVD 3RD FLOOR EAST FRISCO, TEXAS 75034
\$ 447,000.00	PERM & TEMP TRAFFIC SIGNAL INSTALL	2013 / 312	IH 35W	MICA CORPORATION PO BOX 161609 FT. WORTH, TEXAS 76161
\$ 152,875.00	TRAFFIC SIGNAL INSTALL BNSF TOWERS 55	2013 / 317	HAMPTON ST: BELKNAP ST & WEATHERFORD ST	AUI CONTRACTORS, LP 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$ 111,000.00	TRAFFIC SIGNAL INSTALL	2013 / 319	TURTLE CREEK / CEDAR SPRINGS AT TURTLE CREEK BLVD.	AUI CONTRACTORS, LP 4775 NORTH FREEWAY FT. WORTH, TEXAS 76106
\$ 815,000.00	NON-SITE SPECIFIC	2013 / 320	VARIOUS LOCATIONS	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
\$ 91,300.00	MAINTENANCE	2013 / 321	US 287	TXDOT - WF 1601 SOUTHWEST PKWY WICHITA FALLS, TEXAS 76302-4906
\$ 170,000.00	SOLAR PWRD CROSSWALK SYSTEM & SOLAR PWRD DRIVER SPEED ASSY	2013 / 323	VARIOUS LOCATIONS	KEN-DO CONTRACTING, LP PO BOX 2001 DESOTO, TEXAS 75123
\$ 135,650.00	TRAFFIC SIGNAL INSTALL	2013 / 324	FM 548 @ KROGER DRIVE	HAWKINS CONSTRUCTION, INC. PO BOX 1636 TARPON SPRING, FL 34688-1636
\$ 280,964.00	PERM & TEMP TRAFFIC SIGNAL INSTALL	2013 / 327	FM 663	ED BELL CONSTRUCTION COMPANY PO BOX 540787 DALLAS, TEXAS 75354-0787
\$ 182,000.00	TRAFFIC SIGNAL IMPROVEMENTS	2013 / 329	FM 2499 @ LIVE OAK	CITY OF HIGHLAND VILLAGE 1000 HIGHLAND VILLAGE RD HIGHLAND VILLAGE, TEXAS 75077

# EXHIBIT 1 DURABLE SPECIALTIES, INC.

Exhibit "F"

P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

## DURABLE SPECIALTIES, INC. WORK EXPERIENCE

CONTRACT AMT	SCOPE OF WORK	MAJOR CONTRACTS 2013		NAME AND ADDRESS
		YEAR/JOB #	LOCATED	
S 1,598,000.00	NON-SITE SPECIFIC	2013 / 330	VARIOUS LOCATIONS	TXDOT DALLAS PO BOX 133067 DALLAS, TEXAS 75313-3067
S 390,662.00	TRAFFIC SIGNAL INSTALL	2013 / 331	KENTUCKY STREET AT VARIOUS LOCATIONS	NORTH TEXAS CONTRACTING PO BOX 468 KELLER, TEXAS 76244
S 222,101.00	STREET LIGHTING & SCHOOL ZONE FLASHER	2013 / 335	EAST BROAD STREET	XIT PAVING & CONSTRUCTION, INC. 3934 S. HIGHWAY 287 WAXAHACHIE, TEXAS 75165
S 109,100.00	TRAFFIC SIGNAL INSTALL	2013 / 336	SH 289	REBCON, INC. 1868 W. NORTHWEST HWY DALLAS, TEXAS 75220
S 120,000.00	TRAFFIC SIGNAL INSTALL	2013 / 337	FM 3029	TXDOT - TARRANT 2510 SW LOOP 820 FT. WORTH, TEXAS 76133
S 136,900.00	TRAFFIC SIGNAL INSTALL	2013 / 338	INDEPENENCE PKWY AT KELMSCOT DRIVE	CITY OF FRISCO 6101 FRISCO SQUARE BLVD 3RD FLOOR EAST FRISCO, TEXAS 75034
S 102,650.00	2011 INTERSECTION CAPACITY IMPROVEMENT	2013 / 340	VARIOUS LOCATIONS	MCCLENDON CONSTRUCTION PO BOX 999 BURLESON, TEXAS 76097

EXHIBIT 1

THE AMERICAN INSTITUTE OF ARCHITECTS <sup>Exhibit "F"</sup>

AIA Document A310  
Bid Bond

KNOW ALL MEN BY THESE PRESENTS, THAT WE Durable Specialties, Inc.  
P.O. Box 535969 Grand Prairie TX 75050

as Principal, hereinafter called the Principal, and Great American Insurance Company  
301 East Fourth Street Cincinnati OH 45202

a corporation duly organized under the laws of the State of OH  
as Surety, hereinafter called the Surety, are held and firmly bound unto City of Denton, TX  
TX

as Obligee, hereinafter called the Obligee, in the sum of Five Percent of the Greatest Amount Bid  
Dollars (\$ 5% GAB ),

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for RFP 5442/ Intersection Traffic Control Construction

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and materials furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 6th day of February, 2014

*K Fox*

(Witness)

Durable Specialties, Inc.  
(Principal) (Seal)  
By: *[Signature]* v.p.  
(Title)

*Mar Nguyen*

(Witness)



Great American Insurance Company  
(Surety) (Seal)  
*[Signature]*  
Attorney-in-Fact Jack M. Crowley (Title)

EXHIBIT 1

Exhibit "F"

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than FOUR

No. 019950

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
JACK M. CROWLEY	ALL OF	ALL
STEVEN R. FOSTER	ADDISON,	\$75,000,000.00
PATRICIA A. SMITH	TEXAS	
MARIE PERRYMAN		

This Power of Attorney revokes all previous powers issued in behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 21<sup>st</sup> day of, JULY, 2011.

Attest

GREAT AMERICAN INSURANCE COMPANY



*[Handwritten signature]*

*[Handwritten signature]*

STATE OF OHIO, COUNTY OF HAMILTON - ss:

DAVID C. KITCHIN (513-412-4602)

On this 21<sup>st</sup> day of JULY, 2011, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



KAREN L. GROSHEIM  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES 02-20-16

*[Handwritten signature: Karen L. Grosheim]*

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this 6th day of February, 2014.



*[Handwritten signature: Stephen C. Beraha]*



**Purchasing Department  
901-B Texas St.  
Denton, TX 76209  
(940) 349-7100  
[www.dentonpurchasing.com](http://www.dentonpurchasing.com)**

## **ADDENDUM # 1**

### **RFP # 5442**

**For  
Construction of Traffic Control  
Intersections for the City of Denton**

**Issue Date: January 31, 2014  
Response due Date and Time (Central Time):  
Thursday, February 6, 2014, 2:00 p.m.**

RFP # 5442

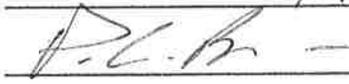
**ADDENDUM # 1**

**Addendum # 1 to be returned with Proposal**

The following are changes to the specifications:

NO OTHER CHANGES AT THIS TIME.

*This form should be signed and returned with your proposal.*

Name: Patrick C. Bryan  
Signature:   
Company: Durable Specialties, Inc  
Title: Vice - President  
Date: 2-6-14

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

**ATTACHMENT C  
BUSINESS OVERVIEW QUESTIONNAIRE**

1. Contractor Name : Durable Specialties, Inc.
2. Address (Principle Place of Business: 2302 Paddock Way Dr., Grand Prairie, TX 75050
3. Does your company have an established physical presence in the State of Texas, or the City of Denton? Yes, in the State of Texas
4. Tax Payer ID#: 75-1963459
5. Email Address of Primary contact: Patrick@durablespecialties.com
6. Website Address: N/A
7. Telephone: 972-296-6324
8. Fax: 972-780-7411
9. Other Locations: N/A
10. Organization Class:  
Corporation
11. Date Established: June 15, 1984
12. Former Business Name: N/A
13. Date of Dissolution: N/A
14. Subsidiary of : N/A
15. Historically Underutilized Business: No
16. Principals and Officers: See attached sheet  
Please detail responsibilities with the name of each principal or officer.
17. Key Personnel and Responsibilities: See attached sheet  
Please detail responsibilities with the name of each key personnel.

**February 6<sup>th</sup> 2014**

**Contractor Name & Address:**

Durable Specialties, Inc.  
PO Box 535969  
Grand Prairie, Texas 75030

**Key Personnel:**

Jeff Bryan, Owner  
38 years experience in traffic signalization construction  
29 years as owner of the company

Zeferino Luna, Superintendent  
29 years experience in traffic signalization construction  
29 years with the company

Kevin Holter, Superintendent  
20 years experience in traffic signalization construction  
19 years with the company

Durable Specialties has constructed traffic signalization projects for 29 years with in-house crews. We have done about 1,200 traffic signalization projects with our in-house crews and in the last three years we have done about 150 traffic signalization projects. Safety Record: All of our traffic signal projects were completed, turned on and passed the required 30 day test period without any safety problems.

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

18. Number of Personnel by Discipline:

19.

Discipline	Number of Staff	# Licensed or Certified
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20. Services Provided by Firm:

Please provide a detailed listing of all services that your company provides.

Please detail your prior experience working on similar projects with Texas governmental entities.

Please detail your similar services provided over the past two (2) years.

Detail documented proof of at least three (3) projects in the past two (2) years.

Please detail these services, including, the nature of the services provided, and the scope of the activities, the organizations for which the services were provided, the dates of the projects, and the documented benefit to the governmental entity.

21. Has your company filed or been named in any litigation involving your company and the Owner on a contract within the last five years under your current company name or any other company name? If so provide details of the issues and resolution if available. Include lawsuits where Owner was involved. No.

22. Please provide at least (3) three references (*preferably municipalities*) and contract amounts. Include project description, contact names, position, and organization name and telephone number for each reference listed. See attachment F.

23. Have you ever defaulted on or failed to complete a contract under your current company name or any other company name? If so, where and why? Give name and telephone number of Owner. No.

24. Have you ever had a contract terminated by the Owner? If so, where and why? Give name and telephone number (s) of Owner (s). No.

25. Has your company implemented an Employee Health and Safety Program compliant with 29 CFR 1910 "General Industry Standards" and/or 29 CFR 1926 "General Construction Standards" as they apply to your Company's customary activities?

[http://www.osha.gov/pls/oshaweb/owasrch.search\\_form?p\\_doc\\_type=STANDARDS&p\\_toc\\_level=1&p\\_keyvalue=1926](http://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARDS&p_toc_level=1&p_keyvalue=1926)

26. Please indicate the total number of projects your Firm has undertaken within the last five years?

27. Insurance Information

a. Name of Insurance Carrier: Continental Casualty Ins. Co.

b. Agent Name: Frank Siddons

c. Address of Agency: 2900 Marquita Drive

d. City/State: Fort Worth, TX 76116

e. Phone Number: 817-737-4943

f. Email address of Agent: hgravenor@fsifw.com

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

28. List all subcontractors whom respondent estimates will fulfill 15% or more of the contract:

29. Resident/Non-Resident Bidder Determination:

Texas Government Code Section 2252.002: Non-resident bidders. Texas law prohibits cities and other governmental units from awarding contracts to a non-resident firm unless the amount of such a bid is lower than the lowest bid by a Texas resident by the amount the Texas resident would be required to underbid in the non-resident bidders' state. In order to make this determination, please provide the name, address and phone number of:

- a. Proposing firms principle place of business: 2302 Paddock Way Dr., Grand Prairie, TX 75050
- b. Company's majority owner principle place of business: 2302 Paddock Way Dr., Grand Prairie, TX 75050
- c. Ultimate Parent Company's principle place of business: 2302 Paddock Way Dr., Grand Prairie, TX 75050

## EXHIBIT 1

Exhibit "F"

### CITY OF DENTON CONSTRUCTION OF TRAFFIC INTERSECTIONS

### ATTACHMENT E SAFETY RECORD QUESTIONNAIRE

The City of Denton desires to avail itself of the benefits of Section 252.0435 of the Local Government Code, and consider the safety records of potential contractors prior to awarding bids on City contracts. Pursuant to Section 252.0435 of the Local Government Code, the City of Denton has adopted the following written definition and criteria for accurately determining the safety record of a bidder prior to awarding bids on City contracts.

The definition and criteria for determining the safety record of a bidder for this consideration shall be:

**The City of Denton shall consider the safety record of the bidders in determining the responsibility thereof. The City may consider any incidence involving worker safety or safety of the citizens of the City of Denton, be it related or caused by environmental, mechanical, operational, supervision or any other cause or factor. Specifically, the City may consider, among other things:**

- a. Complaints to, or final orders entered by, the Occupational Safety and Health Review Commission (OSHRC), against the bidder for violations of OSHA regulations within the past three (3) years.
- b. Citations (as defined below) from an Environmental Protection Agency (as defined below) for violations within the past five (5) years. Environmental Protection Agencies include, but are not necessarily limited to, the U.S. Army Corps of Engineers (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), the Texas Natural Resource Conservation Commission (TNRCC) (predecessor to the TCEQ), the Texas Department of Health (TDH), the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection or worker safety related laws or regulations, and similar regulatory agencies of other states of the United States. Citations include notices of violation, notices of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed, pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.
- c. Convictions of a criminal offense within the past ten (10) years, which resulted in bodily harm or death.
- d. Any other safety related matter deemed by the City Council to be material in determining the responsibility of the bidder and his or her ability to perform the services or goods required by the bid documents in a safe environment, both for the workers and other employees of bidder and the citizens of the City of Denton.

In order to obtain proper information from bidders so that City of Denton may consider the safety records of potential contractors prior to awarding bids on City contracts, City of Denton requires that bidders answer the following three (3) questions and submit them with their bids:

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

**QUESTION ONE**

Has the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of OSHA within the past three (3) years?

YES \_\_\_\_\_ NO  X

If the bidder has indicated YES for question number one above, the bidder must provide to City of Denton, with its bid submission, the following information with respect to each such citation:

Date of offense, location of establishment inspected, category of offense, final disposition of offense, if any, and penalty assessed.

**QUESTION TWO**

**Has the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of environmental protection laws or regulations, of any kind or type, within the past five years? Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses, or registrations, fines assessed, pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.**

YES \_\_\_\_\_ NO  X

If the bidder has indicated YES for question number two above, the bidder must provide to City of Denton, with its bid submission, the following information with respect to each such conviction:

Date of offense or occurrence, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

**QUESTION THREE**

Has the bidder, or the firm, corporation, partnership, or institution represented by bidder, or anyone acting for such firm, corporation, partnership, or institution, ever been convicted, within the past ten (10) years, of a criminal offense which resulted in serious bodily injury or death?

YES \_\_\_\_\_ NO  X

If the bidder has indicated YES for question number three above, the bidder must provide to City of Denton, with its bid submission, the following information with respect to each such conviction:

Date of offense, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

EXHIBIT 1

**DURABLE SPECIALTIES, INC.**

Exhibit "F"

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P.O. BOX 535969 • GRAND PRAIRIE, TX 75053-5969 • PHONE 1-972-296-6324 • FAX 1-972-780-7411

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**DURABLE SPECIALTIES, INC.  
REFERENCES**

CITY OF FT. WORTH  
5001 JAMES AVE., #301  
FT. WORTH, TEXAS 76115  
ATTN: MARK MATHIS-ENGINEER, KEN BROCK-INSPECTOR  
817-392-7974 OFC  
817-392-2533 FAX

CITY OF FRISCO  
6990 MAIN STREET  
FRISCO, TEXAS 75034  
ATTN: BRIAN MOEN-ENGINEER, TRACY NICHOLS-INSPECTOR  
972-335-5586 OFC  
972-731-4945 FAX

CITY OF ALLEN  
305 CENTURY PARKWAY  
ALLEN, TEXAS 75013  
ATTN: DAVID WHITEHEAD-ENGINEER, MIKE KEALY-INSPECTOR  
214-509-4580 OFC  
214-509-4590 FAX

CITY OF GRAND PRAIRIE  
206 CHURCH ST  
GRAND PRAIRIE, TEXAS 75053  
ATTN: SHOLEH KARIMI-ENGINEER, PETER JOYCE-INSPECTOR  
972-237-8053 OFC  
972-237-8116 FAX

TXDOT DALLAS  
PO BOX 133067  
DALLAS, TEXAS 75313-3067  
ATTN: CHRIS BLAIN-ENGINEER, GREG PERKINS-INSPECTOR  
214-320-6100 OFC  
214-320-4492 FAX

CITY OF MCKINNEY  
1550 S. COLLEGE  
MCKINNEY, TEXAS 75070  
ATTN: SCOTTY STEWART  
972-547-7350 OFC  
972-548-1052 FAX

CITY OF DENTON  
801 TEXAS ST.  
DENTON, TEXAS 76209  
ATTN: SCOTT WILSON  
940-349-8491 OFC  
940-349-7307 FAX

CITY OF UNIVERSITY PARK  
2525 UNIVERSITY BLVD  
UNIVERSITY PARK, TEXAS 75000  
ATTN: RANDY BROWN  
214-363-1644 OFC  
214-987-5438 FAX

CITY OF DUNCANVILLE  
330 SHADY TRAIL  
DUNCANVILLE, TEXAS 75138  
STEVE MILLER-ENGINEER, JOHN BORCHARDT-INSPECTOR  
972-780-5059 OFC  
972-780-6461 FAX

CITY OF DESOTO  
809 WEST SPINNER ROAD  
DESOTO, TEXAS 75115  
MATT MISER-SUPERVISOR, BRAD RUSSELL-INSPECTOR  
972-230-5714 OFC  
972-223-9518 FAX

CITY OF DALLAS  
1500 MARILLA STREET  
DALLAS, TEXAS 75201  
STEVE CHERRYHOLMES-ENGINEER, JOHN THOMPSON-ENGINEER  
214-670-3113 OFC  
214-670-3292 FAX

TOWN OF ADDISON  
16801 WEST GROVE DRIVE  
ADDISON, TEXAS 75001  
ROBIN JONES-ENGINEER, BRANDON GRAHAM-INSPECTOR  
972-450-2871 OFC  
972-450-2837 FAX

CITY OF MESQUITE  
1515 NORTH GALLOWAY AVENUE  
MESQUITE, TEXAS 75185  
SRINI MANDAYAM-ENGINEER, FRANK CANTRELL-INSPECTOR  
972-216-6357 OFC  
972-216-6360 FAX

CITY OF MANSFIELD  
1200 EAST BROAD STREET  
MANSFIELD, TEXAS 76063  
DAVID BOSKI-ENGINEER  
817-276-4208 OFC  
817-477-1416 FAX

**EXHIBIT 1**

**Exhibit "F"**

**CITY OF DENTON  
CONSTRUCTION OF TRAFFIC INTERSECTIONS**

**ATTACHMENT J  
ACKNOWLEDGEMENT**

The undersigned agrees this Proposal becomes the property of the City of Denton after the official opening.

The undersigned affirms he has familiarized himself with the specification, drawings and other documents; the local conditions under which the work is to be performed; satisfied himself of the conditions of delivery, handling and storage of materials and equipment; and all other matters that will be required for the work before submitting a proposal. In submitting a proposal the undersigned further understands that the work required is to provide construction of the project that functions as described in the specification. The undersigned understands that all requirements of the construction may not be described in every detail and agrees to provide labor, tools, material and equipment necessary to complete all construction to make the fence functional as described in the specification and drawings before submitting a proposal.

The undersigned agrees, if this proposal is accepted, to furnish any and all items/services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specification. The period for acceptance of this Proposal will be ninety (90) calendar days unless a different period is noted.

The undersigned affirms that they are duly authorized to execute this contract, that this RFP has not been prepared in collusion with any other Proposer, nor any employee of the City of Denton, and that the contents of this RFP have not been communicated to any other proposer or to any employee of the City of Denton prior to the official opening of this bid.

Respondent hereby assigns to the City any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

The undersigned affirms that they have read and do understand the specifications and any attachments contained in this RFP package.

The undersigned agrees that the RFP posted on the website are the official specifications and shall not alter the electronic copy of the specifications and/or pricing sheet (Exhibit 1), without clearly identifying changes.

The undersigned understands they will be responsible for monitoring the City of Denton Purchasing Website at: <http://www.cityofdenton.com/index.aspx?page=397> to ensure they have downloaded and signed all addendum(s) required for submission with their proposal.

I certify that I have made no willful misrepresentations in this Proposal Submission, nor have I withheld information in my statements and answers to questions. I am aware that the information given by me in this proposal will be investigated, with my full permission, and that any misrepresentations or omissions may cause my proposal to be rejected.

Acknowledge receipt of following addenda to the proposal:

Addendum No 1 Dated 1-31-14  
Addendum No 2 Dated \_\_\_\_\_  
Addendum No 3 Dated \_\_\_\_\_

Received BS  
Received \_\_\_\_\_  
Received \_\_\_\_\_

**NAME AND ADDRESS OF COMPANY:**

Durable Specialties, Inc  
PO Box 535969  
Grand Prairie, Tx 75053

Tel. No. 972-296-6324

Email. Patrick@durablespecialties.com

**AUTHORIZED REPRESENTATIVE:**

Signature Patrick C Bryan

Date 1-6-14

Name Patrick C Bryan

Title Vice-President

Fax No. 972-780-7411

**EXHIBIT 1**

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

*The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.*

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
1	840	LF	Trench 2" PVC Schedule 80	Furnish and Install	\$ 10.00	\$ 8,400.00
2	1,700	LF	Trench 2" PVC Schedule 40	Furnish and Install	\$ 9.00	\$ 15,300.00
3	900	LF	Trench 3" PVC Schedule 40	Furnish and Install	\$ 11.00	\$ 9,900.00
4	1,820	LF	Trench 4" PVC Schedule 40	Furnish and Install	\$ 10.00	\$ 18,200.00
5	460	LF	Trench 6" PVC Schedule 40	Furnish and Install	\$ 17.00	\$ 7,820.00
6	600	LF	Directional bore 2" PVC Schedule 80	Furnish and Install	\$ 21.00	\$ 12,600.00
7	600	LF	Directional bore 2" PVC Schedule 40	Furnish and Install	\$ 20.00	\$ 12,000.00
8	1,650	LF	Directional bore 3" PVC Schedule 40	Furnish and Install	\$ 20.00	\$ 33,000.00
9	1,650	LF	Directional bore 4" PVC Schedule 40	Furnish and Install	\$ 21.00	\$ 34,650.00
10	500	LF	Directional bore 6" PVC Schedule 40	Furnish and Install	\$ 30.00	\$ 15,000.00
11	160	LF	Rigid Metallic Conduit (RM) 1"	Furnish and Install	\$ 12.00	\$ 1,920.00
12	160	LF	Rigid Metallic Conduit (RM) 1.5"	Furnish and Install	\$ 14.00	\$ 2,240.00
13	210	LF	Rigid Metallic Conduit (RM) 2"	Furnish and Install	\$ 15.00	\$ 3,150.00
14	320	LF	Rigid Metallic Conduit (RM) 3"	Furnish and Install	\$ 23.00	\$ 7,360.00
15	320	LF	Rigid Metallic Conduit (RM) 4"	Furnish and Install	\$ 25.00	\$ 8,000.00
16	24	EA	Rigid Metallic Conduit (RM) various sizes on timber poles	Remove	\$ 100.00	\$ 2,400.00
17	12	EA	Ground box Type B with apron	Furnish and Install	\$ 780.00	\$ 9,360.00
18	12	EA	Ground box (city supplied box only) Type B with apron	Furnish and Install	\$ 600.00	\$ 7,200.00
19	40	EA	Ground box Type D with apron	Furnish and Install	\$ 800.00	\$ 32,000.00
20	40	EA	Ground box (city supplied box only) Type D with apron	Furnish and Install	\$ 600.00	\$ 24,000.00
21	48	EA	Ground box with apron	Remove	\$ 100.00	\$ 4,800.00
22	4	EA	Traffic signal cabinet with terminations (pad mounted) no concrete or base	Install	\$ 7,500.00	\$ 30,000.00
23	10	EA	Traffic signal cabinet breakaway base and concrete pad (8'x9'x6")	Furnish and Install	\$ 2,400.00	\$ 24,000.00
24	3	EA	Traffic signal cabinet concrete pad (8'x9'x6")	Furnish and Install	\$ 2,100.00	\$ 6,300.00
25	4	EA	Traffic signal cabinet (pad mounted) with base	Remove	\$ 500.00	\$ 2,000.00
26	4	EA	Traffic signal cabinet (pad mounted) with base and concrete pad	Remove	\$ 900.00	\$ 3,600.00
27	3	EA	Traffic signal cabinet concrete pad	Remove	\$ 400.00	\$ 1,200.00
28	10	EA	Battery backup unit (BBU) external cabinet on traffic signal cabinet	Install	\$ 600.00	\$ 6,000.00
29	2	EA	Meter pedestal service with terminations (pad mounted) no concrete pad	Install	\$ 2,000.00	\$ 4,000.00
30	10	EA	Meter pedestal service with terminations (pad mounted) with concrete pad	Furnish and Install	\$ 5,000.00	\$ 50,000.00

**EXHIBIT 1**

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

*The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.*

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
31	2	EA	Meter pedestal service concrete pad	Furnish and Install	\$ 900.00	\$ 1,800.00
32	4	EA	Meter pedestal electrical service and concrete pad	Remove	\$ 500.00	\$ 2,000.00
33	4	EA	Electrical service, overhead	Remove	\$ 500.00	\$ 2,000.00
34	320	LF	24-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 175.00	\$ 56,000.00
35	48	LF	30-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 200.00	\$ 9,600.00
36	52	LF	36-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 225.00	\$ 11,700.00
37	72	LF	42-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 245.00	\$ 17,640.00
38	528	LF	48-A Signal pole foundation with ground rod, Class C concrete	Furnish and Install	\$ 275.00	\$ 145,200.00
39	12	EA	Signal pole foundation (18" below ground minimum)	Remove	\$ 500.00	\$ 6,000.00
40	16	EA	Long Mast Arm (Assembly) with 50'-65' mast arm	Install	\$ 1,800.00	\$ 28,800.00
41	4	EA	Long Mast Arm (Assembly) with 50'-65' mast arm, no luminaire or ILSN arm	Install	\$ 900.00	\$ 3,600.00
42	6	EA	Long Mast Arm Pole	Install	\$ 900.00	\$ 5,400.00
43	6	EA	Long Mast Arm 50'-65'	Install	\$ 900.00	\$ 5,400.00
44	8	EA	Long Mast Arm (Assembly) with 50'-65' mast arm	Remove	\$ 1,100.00	\$ 8,800.00
45	8	EA	Long Mast Arm 50'-65'	Remove	\$ 600.00	\$ 4,800.00
46	8	EA	Single Mast Arm (Assembly) with 36'-48' mast arm	Install	\$ 1,200.00	\$ 9,600.00
47	4	EA	Single Mast Arm (Assembly) with 36'-48' mast arm, no luminaire or ILSN arm	Install	\$ 650.00	\$ 2,600.00
48	4	EA	Single Mast Arm Pole (for a 36'-48' arm)	Install	\$ 650.00	\$ 2,600.00
49	4	EA	Single Mast Arm 36'-48'	Install	\$ 650.00	\$ 2,600.00
50	8	EA	Single Mast Arm (Assembly) with a 36'-48' mast arm	Remove	\$ 900.00	\$ 7,200.00
51	8	EA	Single Mast Arm 36'-48'	Remove	\$ 450.00	\$ 3,600.00
52	2	EA	Single Mast Arm (Assembly) with 20'-32' mast arm	Install	\$ 1,100.00	\$ 2,200.00
53	2	EA	Single Mast Arm (Assembly) with 20'-32' mast arm, no luminaire or ILSN arm	Install	\$ 1,100.00	\$ 2,200.00
54	2	EA	Single Mast Arm Pole (for a 20'-32' arm)	Install	\$ 550.00	\$ 1,100.00
55	2	EA	Single Mast Arm 20'-32'	Install	\$ 550.00	\$ 1,100.00
56	4	EA	Single Mast Arm (Assembly) with a 20'-32' mast arm	Remove	\$ 500.00	\$ 2,000.00
57	4	EA	Single Mast Arm 20'-32'	Remove	\$ 500.00	\$ 2,000.00
58	4	EA	Strain Pole (Assembly), 34'	Install	\$ 800.00	\$ 3,200.00
59	2	EA	Strain Pole (Assembly), 34', no luminaire or ILSN arms	Install	\$ 800.00	\$ 1,600.00
60	4	EA	Strain Pole (Assembly)	Remove	\$ 400.00	\$ 1,600.00

**EXHIBIT 1**

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

*The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.*

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
61	16	EA	Luminaire Arm 8-10'	Install	\$ 150.00	\$ 2,400.00
62	24	EA	Luminaire Arm 25'	Install	\$ 200.00	\$ 4,800.00
63	40	EA	ILSN Arm 7'-9'	Install	\$ 100.00	\$ 4,000.00
64	4	EA	Luminaire Arm	Remove	\$ 50.00	\$ 200.00
65	4	EA	ILSN Arm	Remove	\$ 50.00	\$ 200.00
66	12	EA	50', Class 1 timber pole	Install	\$ 775.00	\$ 9,300.00
67	2	EA	50', Class 1 timber pole	Furnish and Install	\$ 1,800.00	\$ 3,600.00
68	4	EA	50', Class 1, timber pole assembly, one anchor design	Furnish and Install	\$ 2,100.00	\$ 8,400.00
69	16	EA	50', Class 1, timber pole assembly, two anchor design	Furnish and Install	\$ 2,400.00	\$ 38,400.00
70	8	EA	Timber pole anchor assembly	Furnish and Install	\$ 275.00	\$ 2,200.00
71	4	EA	Timber pole (entire pole)	Remove	\$ 375.00	\$ 1,500.00
72	4	EA	Timber pole (18" below ground)	Remove	\$ 375.00	\$ 1,500.00
73	8	EA	5-section signal head assembly	Install	\$ 700.00	\$ 5,600.00
74	20	EA	5-section (cluster) signal head assembly	Install	\$ 700.00	\$ 14,000.00
75	36	EA	4-section signal head assembly	Install	\$ 575.00	\$ 20,700.00
76	72	EA	3-section signal head assembly	Install	\$ 450.00	\$ 32,400.00
77	8	EA	5-section (city supplied) signal head (pole mounted)	Furnish and Install	\$ 850.00	\$ 6,800.00
78	20	EA	5-section (cluster) (city supplied) signal head (pole mounted)	Furnish and Install	\$ 950.00	\$ 19,000.00
79	64	EA	4-section (city supplied) signal head (pole mounted)	Furnish and Install	\$ 750.00	\$ 48,000.00
80	72	EA	3-section (city supplied) signal head (pole mounted)	Furnish and Install	\$ 650.00	\$ 46,800.00
81	8	EA	5-section (city supplied) signal head (span mounted)	Furnish and Install	\$ 1,100.00	\$ 8,800.00
82	8	EA	5-section (cluster) (city supplied) signal head (span mounted)	Furnish and Install	\$ 1,100.00	\$ 8,800.00
83	16	EA	4-section (city supplied) signal head (span mounted)	Furnish and Install	\$ 1,000.00	\$ 16,000.00
84	48	EA	3-section (city supplied) signal head (span mounted)	Furnish and Install	\$ 850.00	\$ 40,800.00
85	48	EA	Signal head assembly	Remove	\$ 150.00	\$ 7,200.00
86	20	EA	Regulatory sign	Install	\$ 70.00	\$ 1,400.00
87	48	EA	Regulatory sign (city supplied) (pole mounted)	Furnish and Install	\$ 100.00	\$ 4,800.00
88	36	EA	Regulatory sign (city supplied) (span mounted)	Furnish and Install	\$ 235.00	\$ 8,460.00
89	4	EA	Street name sign	Install	\$ 140.00	\$ 560.00
90	4	EA	Street name sign (city supplied) (pole mounted)	Furnish and Install	\$ 200.00	\$ 800.00
91	4	EA	Street name sign (city supplied) (span mounted)	Furnish and Install	\$ 300.00	\$ 1,200.00
92	24	EA	Sign (Regulatory/Street name)	Remove	\$ 70.00	\$ 1,680.00
93	40	EA	ILSN Sign 6'	Install	\$ 300.00	\$ 12,000.00

# EXHIBIT 1

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

## RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS

The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.

### Product Proposal Pricing:

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
94	12	EA	ILSN Sign 6'	Remove	\$ 200.00	\$ 2,400.00
95	40	EA	Luminaire head	Install	\$ 70.00	\$ 2,800.00
96	4	EA	Luminaire head	Remove	\$ 70.00	\$ 280.00
97	40	EA	Wind dampener (city supplied sign) for mast arm	Furnish and Install	\$ 250.00	\$ 10,000.00
98	4	EA	Wind dampener for mast arm	Remove	\$ 70.00	\$ 280.00
99	8	EA	VIVIDS (video detection camera)	Install	\$ 250.00	\$ 2,000.00
100	12	EA	Pan/Tilt/Zoom camera (PTZ)	Install	\$ 250.00	\$ 3,000.00
101	20	EA	Advance radar detection	Install	\$ 350.00	\$ 7,000.00
102	40	EA	Presence radar detection	Install	\$ 350.00	\$ 14,000.00
103	20	EA	Opticom detector	Install	\$ 200.00	\$ 4,000.00
104	10	EA	Wireless radio with antenna(s)	Install	\$ 200.00	\$ 2,000.00
105	2	EA	Spread Spectrum Radio (SSR) antenna	Install	\$ 125.00	\$ 250.00
106	12	EA	VIVIDS (video detection camera)	Remove	\$ 125.00	\$ 1,500.00
107	4	EA	Pan/Tilt/Zoom camera (PTZ)	Remove	\$ 125.00	\$ 500.00
108	4	EA	Advance radar detection	Remove	\$ 125.00	\$ 500.00
109	8	EA	Presence radar detection	Remove	\$ 125.00	\$ 1,000.00
110	8	EA	Opticom detector	Remove	\$ 125.00	\$ 1,000.00
111	4	EA	Wireless radio with antenna(s)	Remove	\$ 125.00	\$ 500.00
112	4	EA	Spread Spectrum Radio (SSR) antenna	Remove	\$ 60.00	\$ 240.00
113	2	EA	Roadside flasher beacon assembly (solar powered)	Install	\$ 2,500.00	\$ 5,000.00
114	2	EA	Roadside flasher beacon assembly	Remove	\$ 650.00	\$ 1,300.00
115	48	EA	Pedestrian head with LED insert on metal pole	Install	\$ 255.00	\$ 12,240.00
116	32	EA	Pedestrian head with LED insert on timber pole	Install	\$ 500.00	\$ 16,000.00
117	48	EA	Pedestrian button station assembly on metal pole	Install	\$ 70.00	\$ 3,360.00
118	32	EA	Pedestrian button station assembly on timber pole	Install	\$ 125.00	\$ 4,000.00
119	24	EA	Pedestrian push button pole assembly	Install	\$ 375.00	\$ 9,000.00
120	36	EA	Pedestrian push button pole assembly with 4' pole	Furnish and Install	\$ 725.00	\$ 26,100.00
121	12	EA	Pedestrian push button pole assembly with 16' pole	Furnish and Install	\$ 1,200.00	\$ 14,400.00
122	24	EA	Pedestrian head	Remove	\$ 125.00	\$ 3,000.00
123	24	EA	Pedestrian button station	Remove	\$ 60.00	\$ 1,440.00
124	8	EA	Pedestrian push button pole assembly	Remove	\$ 255.00	\$ 2,040.00
125	600	LF	Zinc-coat steel wire strand (3/16 in)	Furnish and install	\$ 2.00	\$ 1,200.00
126	1,600	LF	Zinc-coat steel wire strand (1/4 in)	Furnish and install	\$ 2.00	\$ 3,200.00

**EXHIBIT 1**

Respondent's Name: **Exhibit "F"  
Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

*The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.*

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
127	600	LF	Zinc-coat steel wire strand (5/16 in)	Furnish and install	\$ 2.00	\$ 1,200.00
128	6,800	LF	Zinc-coat steel wire strand (3/8 in)	Furnish and install	\$ 2.00	\$ 13,600.00
129	1,200	LF	Zinc-coat steel wire strand	Remove	\$ 1.00	\$ 1,200.00
130	2	EA	Entire mast arm pole intersection, 3 pole design	Remove	\$ 2,100.00	\$ 4,200.00
131	2	EA	Entire mast arm pole intersection, 4 pole design	Remove	\$ 2,700.00	\$ 5,400.00
132	1	EA	Entire timber pole intersection, 3 pole design	Remove	\$ 1,390.00	\$ 1,390.00
133	2	EA	Entire timber pole intersection, 4 pole design	Remove	\$ 1,800.00	\$ 3,600.00
134	14,200	LF	Traffic Signal Cable (Type A) 14 AWG (7 conductor)	Furnish and Install	\$ 1.00	\$ 14,200.00
135	400	LF	Traffic Signal Cable (Type A) 14 AWG (9 conductor)	Furnish and Install	\$ 1.00	\$ 400.00
136	400	LF	Traffic Signal Cable (Type A) 14 AWG (10 conductor)	Furnish and Install	\$ 2.00	\$ 800.00
137	4,800	LF	Traffic Signal Cable (Type A) 14 AWG (21 conductor)	Furnish and Install	\$ 3.00	\$ 14,400.00
138	4,800	LF	Traffic Signal Cable (Type A) 14 AWG (25 conductor)	Furnish and Install	\$ 3.50	\$ 16,800.00
139	300	LF	Traffic Signal Cable (Type C) 12 AWG (2 conductor)	Furnish and Install	\$ 1.00	\$ 300.00
140	300	LF	Traffic Signal Cable (Type C) 14 AWG (2 conductor)	Furnish and Install	\$ 1.00	\$ 300.00
141	300	LF	Traffic Signal Cable (Type C) 18 AWG (2 conductor)	Furnish and Install	\$ 1.00	\$ 300.00
142	950	LF	Electric conductor stranded (No. 4 AWG) insulated	Furnish and Install	\$ 2.00	\$ 1,900.00
143	200	LF	Electric conductor stranded (No. 4 AWG) bare	Furnish and Install	\$ 2.00	\$ 400.00
144	600	LF	Electric conductor stranded (No. 6 AWG) insulated	Furnish and Install	\$ 1.00	\$ 600.00
145	200	LF	Electric conductor stranded (No. 6 AWG) bare	Furnish and Install	\$ 1.00	\$ 200.00
146	200	LF	Electric conductor solid (No. 6 AWG) bare	Furnish and Install	\$ 1.00	\$ 200.00
147	325	LF	Electric conductor stranded (No. 8 AWG) insulated	Furnish and Install	\$ 1.00	\$ 325.00
148	125	LF	Electric conductor stranded (No. 8 AWG) bare	Furnish and Install	\$ 1.00	\$ 125.00
149	4,600	LF	Tray Cable 12 AWG (3 conductor)	Furnish and Install	\$ 1.00	\$ 4,600.00
150	4,600	LF	Tray Cable 14 AWG (3 conductor)	Furnish and Install	\$ 1.00	\$ 4,600.00
151	720	LF	Tray Cable 16 AWG (3 conductor)	Furnish and Install	\$ 1.00	\$ 720.00
152	450	LF	Tray Cable 12 AWG (4 conductor)	Furnish and Install	\$ 1.00	\$ 450.00
153	320	LF	Tray Cable 14 AWG (4 conductor)	Furnish and Install	\$ 1.00	\$ 320.00
154	2,400	LF	GTT Opticom System Cable 20 AWG (3 conductor) black sheilded	Furnish and Install	\$ 1.00	\$ 2,400.00
155	1,000	LF	Belden 7919A Cat 5E black sheilded or equal	Furnish and Install	\$ 3.50	\$ 3,500.00
156	1,500	LF	Multicondutor cable (1/4" O.D. and smaller )	Install	\$ 1.00	\$ 1,500.00
157	1,800	LF	Multicondutor cable (5/16" - 3/8" O.D.)	Install	\$ 1.00	\$ 1,800.00
158	1,200	LF	Multicondutor cable (7/16" - 5/8" O.D.)	Install	\$ 1.50	\$ 1,800.00
159	1,200	LF	Multicondutor cable (11/16" - 7/8" O.D.)	Install	\$ 1.50	\$ 1,800.00

**EXHIBIT 1**

**Exhibit "F"**  
**Respondent's Name: Durable Specialties, Inc.**

**RFP 5442 - Pricing Sheet for CONSTRUCTION OF TRAFFIC CONTROL INTERSECTIONS**

*The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.*

**Product Proposal Pricing:**

We are estimating on 10 intersections a year for 3 years – 30 intersections for the total estimated amount.

Item	EST. ANNUAL QTY	UOM	Product Description	Description 2	Unit Price	Extended Price
160	1,500	LF	Single or multiconductor cable (1/4" O.D. and smaller )	Remove	\$ 0.50	\$ 750.00
161	1,500	LF	Single or multiconductor cable (5/16" - 3/8" O.D.)	Remove	\$ 0.50	\$ 750.00
162	1,500	LF	Single or multiconductor cable (7/16" - 5/8" O.D.)	Remove	\$ 0.50	\$ 750.00
163	1,500	LF	Single or multiconductor cable (11/16" -7/8" O.D.)	Remove	\$ 0.50	\$ 750.00
<b>Total Cost of Products (Annual)</b>						<b>\$ 1,396,500.00</b>

**Additional Services**

Item	UOM	Product Description	Description 2	Unit Price
164	Hourly	Contractor Services Price Per Hour with Aerial Truck	This includes aerial & ground services	<b>\$200.00</b>
165	Hourly	Contractor Services Price Per Hour for span wire intersections	This includes aerial, ground, and span pole installation/removal services.	<b>\$400.00</b>
166	Hourly	Contractor Services Price Per Hour for mast arm pole intersections	This includes aerial, ground, and mast arm pole installation/removal services.	<b>\$400.00</b>
167	%	Mobilization	Percent of total purchase order amount (Smaller projects) not to exceed 15%	<b>10</b>
168	Ea	Mobilization per Intersection	For complete intersection builds	<b>\$2,500.00</b>
169	Days	Timeline to start Project	Scheduled time contractor can start a signal project in Denton after notice to proceed through a purchase order	<b>50</b>
170	Hrs	Arrival time to start Emergency Project	Emergency response for a contractor to repair/replace signals in Denton	<b>4</b>

## EXHIBIT 1

RFP #5442

Exhibit "F"  
Addendum # 1

### GENERAL NOTES FOR BID LINE ITEMS:

All materials shall be of the latest City of Denton / TXDOT specifications with their corresponding item codes

Install items shall be with city supplied materials unless otherwise noted on line item

Furnish and install items shall be with contractor supplied materials unless otherwise noted on line item

All bid line item installations shall be completed with terminations and fully operational after installation

Ground box, signal cabinet pad, and meter pedestal pad installations shall include conduit stub ups and tie-ins with bell ends at the end of each conduit.

Traffic signal cabinet base shall be Armorcast A6001848X24TXDT or a predetermined city approved equal.

Meter pedestal service shall be Electrol systems, TXDOT standard green powder coated aluminum type D pedestal, TYD 120/240 070 (NS)AL(E)PS(U): 1-50a/1p for traffic signal, 2-20a/1p for lighting, 1-15a/1p for control circuit, interior photo cell with windows, 30 amp lighting contactor, and HOA selector switch.

All mast arm or timber pole assemblies shall include pickup and delivery from and to job site in Denton unless contractor supplied.

Timber poles shall be creosote-treated southern yellow pine and shall be set using approved expanding foam method.

Furnish and Install timber pole assemblies include a one or two anchor design, and in each case, shall contain all connecting hardware for each strand wire support and each pole anchor guy. Some installations may include a guy spreader.

Timber pole anchors shall be set using Class C concrete and contain all guy cable and connecting hardware from anchor to timber pole.

Pedestrian head installations on timber poles shall include a NEMA type 3R junction box with a liquid tight conduit to each pedestrian head and associated mounting hardware.

Pedestrian push button station installations on timber poles shall include a liquid tight conduit to pedestrian head junction box with associated mounting hardware.

Pedestrian push button pole assembly furnish and installs shall contain Pelco parts consisting of 1 EA: PB-5335-GL-PNC, PB-5306, PB-5325, PB-5401, AND PB-5100

GENERAL NOTES FOR BID LINE ITEMS:

Rigid metallic (RM) conduit shall contain appropriate weather head and mounting hardware.

Salvage existing traffic signals and equipment as shown on plans and as directed by the City of Denton. Removal of each intersection shall include all above and below ground traffic signal related items except for electrical services. Conduit stub ups and concrete foundations must be removed 18" below ground and then can be abandoned. ADA ramps and pavement markings are excluded.

Wind dampener (dampening plate) only will be supplied by the city; all other mounting hardware shall be provided and installed by the contractor.

Traffic signal pole foundation anchor bolts will be supplied by the city at time of foundation installation.

Long and single mast arm assemblies will contain a vertical pole assembly, a mast arm, a luminaire arm, an ILSN arm, and an anchor bolt base cover.

Strain pole assemblies will contain the vertical pole, a luminaire arm, an ILSN arm, and an anchor bolt base cover.

Install signal head items shall include labor only for a complete assembly using LEDs, visors, backplates, and mounting hardware.

Furnish and Install signal head items shall include labor only except for contractor supplied Pelco AS-0125/AS-0138 signal head mounting hardware for pole mount or SP-3058-TX-ALO/AS-0138 signal head mounting hardware for span mount.

Furnish and Install Regulatory and Street name sign items shall be a city supplied sign and line item cost will only include the sign's mounting hardware and labor.

Timeline to complete each workorder, after notice to proceed through a purchase order, will be 30 working days for a 4 pole intersection, and 45 days for a 6 pole intersection.

City supplied materials to signal contractor that will need to be programmed for signal operation, will be the responsibility of the City of Denton. Installation/mounting and mounting adjustments of such items will be a pay item to the signal contractor.

**EXHIBIT 1**

**Exhibit "F"**

**Texas Franchise Tax Public Information Report**

To be filed by Corporations, Limited Liability Companies (LLC) and Financial Institutions  
 This report **MUST** be signed and filed to satisfy franchise tax requirements



05-102  
 (Rev. 9-11/30)

Code 13196 Franchise

■ Taxpayer number

■ Report year

*You have certain rights under Chapter 552 and 559, Government Code, to review, request, and correct information we have on file about you. Contact us at (800) 252-1381 or (512) 463-4600.*

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Taxpayer name <b>DURABLE SPECIALTIES, INC.</b>				Secretary of State (SOS) file number or Comptroller file number <b>0070837900</b>	
Mailing address <b>PO BOX 535969</b>					
City <b>GRAND PRAIRIE</b>		State <b>TX</b>	ZIP Code <b>75053</b>	Plus 4	

Blacken circle if there are currently no changes from previous year; if no information is displayed, complete the applicable information in Sections A, B and C.

Principal office <b>2302 Paddock Way Dr. Grand Prairie, Texas 75050</b>
Principal place of business <b>2302 Paddock Way Dr. Grand Prairie, Texas 75050</b>

*Please sign below!*

Officer, director and manager information is reported as of the date a Public Information Report is completed. The information is updated annually as part of the franchise tax report. There is no requirement or procedure for supplementing the information as officers, directors, or managers change throughout the year.



**SECTION A** Name, title and mailing address of each officer, director or manager.

Name <b>CAROL RICHTER</b>						Title <b>TREASURER</b>						Director <input type="radio"/> YES		Term expiration m m d d y y <b>1 2 3 1 1 5</b>					
Mailing address <b>PO BOX 535969</b>						City <b>GRAND PRAIRIE</b>						State <b>TX</b>		ZIP Code <b>75053</b>					
Name <b>Jennifer A Warnack</b>						Title <b>VP Finance</b>						Director <input type="radio"/> YES		Term expiration m m d d y y <b>1 2 3 1 1 5</b>					
Mailing address <b>PO Box 535969</b>						City <b>Grand Prairie</b>						State <b>TX</b>		ZIP Code <b>75053</b>					
Name						Title						Director <input type="radio"/> YES		Term expiration m m d d y y					
Mailing address						City						State		ZIP Code					

**SECTION B** Enter the information required for each corporation or LLC, if any, in which this entity owns an interest of 10 percent or more.

Name of owned (subsidiary) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of ownership
Name of owned (subsidiary) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of ownership

**SECTION C** Enter the information required for each corporation or LLC, if any, that owns an interest of 10 percent or more in this entity or limited liability company.

Name of owned (parent) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of ownership
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Registered agent and registered office currently on file. (see instructions if you need to make changes)  Blacken circle if you need forms to change the registered agent or registered office information.

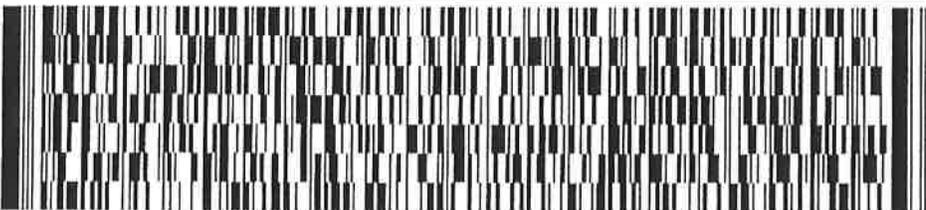
Agent: <b>JEFFREY C BRYAN</b>	City <b>FORT WORTH</b>	State <b>TX</b>	ZIP Code <b>76107</b>
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The above information is required by Section 171.203 of the Tax Code for each corporation or limited liability company that files a Texas Franchise Tax Report. Use additional sheets for Sections A, B, and C, if necessary. The information will be available for public inspection.

I declare that the information in this document and any attachments is true and correct to the best of my knowledge and belief, as of the date below, and that a copy of this report has been mailed to each person named in this report who is an officer, director or manager and who is not currently employed by this, or a related, corporation or limited liability company.

Signature <b>CAROL A RICHTER</b>	Title <b>Electronic</b>	Date <b>08-12-2013</b>	Area code and phone number <b>( 972 ) 296 - 6324</b>
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**Texas Comptroller Official Use Only**



VE/DE <input type="radio"/>	PIR IND <input type="radio"/>
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EXHIBIT 1

ATTACHMENT G

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
<b>For vendor or other person doing business with local governmental entity</b>		<b>OFFICE USE ONLY</b>
<b>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.</b>		
<p>This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).</p> <p>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 person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>		
<b>1</b>	Name of person who has a business relationship with local governmental entity.	
<b>2</b>	<input type="checkbox"/> 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 7 <sup>th</sup> business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)	
<b>3</b>	Name of local government officer with whom filer has an employment or business relationship.  <div style="text-align: center; margin: 10px 0;">             _____              Name of Officer           </div> <p>This section, (item 3 including subparts A, B, C &amp; D), must be completed for each officer with whom the filer 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.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>B. Is the filer of the questionnaire 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?  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>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 10 percent or more?  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>D. Describe each affiliation or business relationship.</p>	
<b>4</b>	<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; text-align: center;">             _____              Signature of person doing business with the governmental entity           </div> <div style="width: 45%; text-align: center;">             _____              Date           </div> </div>	