

AGENDA
CITY COUNCIL MEETING
COUNCIL CHAMBERS – CITY HALL
513 MAIN STREET
February 16, 2026

1. Call the Meeting to Order – 5:30 p.m.
2. Pledge of Allegiance
3. Mayoral Announcements – Recycled Rides

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the west wall in Council Chambers as well as on the City of Wayne website.

The City Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

4. Approval of Minutes – February 2, 2026
5. Approval of Claims
6. Appointment of Chris Rasmussen to the Wayne Housing Authority
7. Action on the request of Wayne America, Inc., to waive the Wayne City Auditorium rental fee for their “Community Garage Sale” to be held on Friday, March 6, and Saturday, March 7, 2026
8. Resolution 2026-14: Approving Agreement with JEO Consulting Group, Inc., for the “2025 Water Improvement Projects”

Background: Staff is proposing a water line main upgrade northeast of 7th and Main Streets. This upgrade would upsize lines from 7th to 10th on Logan, Nebraska and Windom Streets. It is estimated to be about a \$1.7M construction project. The City would apply for State Revolving Loan Funds (RLF) to do this project. RLF gives a very low rate/admin fee on the loan, plus typically a small portion of loan forgiveness. The action item is to accept the scope of services contract with JEO (for design and bid) for \$157,000.

9. Resolution 2026-15: Adopting Title VI Non-Discrimination Plan – 2026 for the City of Wayne Public Transit Program

Background: This document needs to be approved by the Mayor and Council. This updates the City’s accessibility commitments for public transit and is required by all cities receiving grant funds for public transit operations. It was last approved in 2023.

10. Resolution 2026-16: Approving Request for Proposals for the Operation of the Wayne Recycling & Trash Center

Background: If approved, this RFP will be open to respond on February 17th. Proposals are due by March 27th, with the agreement being approved in April/May.

11. Resolution 2026-17: Approving Amendment No. 2 to Task Order No. 05 of the Master Agreement with DGR Engineering for the project named “Proposed Generation Plant Project”

Background: This agreement amendment will amend the fees by an additional \$38,700 for the design, construction administration and construction observation phases to adding generation to the proposed substation site located in the northeast part of Wayne.

12. Resolution 2026-18: Approving Plans, Specifications and Cost Estimate for the “Northeast/Centennial Road Substation Site Grading Project” and authorizing the City Clerk to advertise for bids

Background: This item is to approve the plans and specs for earth moving for the future substation and generation facility. We are at a point to start grading the substation site. The project is estimated to be around \$1M. Council must decide on whether to grade now for the generation portion or wait until we start bidding for generation services. If Council waits and makes this two separate projects, the engineer estimates it will cost an additional \$200k. One part of the project has a need for dirt, and the other has excess dirt. This is where the most cost savings would be realized at this time. Each project would be around \$500k if they are done simultaneously.

13. Ordinance 2026-1: Approving the Non-Exclusive Public Right-of-Way License Agreement with ALLO Asset Entity 1, LLC (Second Reading)
14. Action to accept the resignation of Councilmember Matt Eischeid, declaring a “Notice of Vacancy” in Ward 2, and to authorize the City Clerk to publish such notice
15. Action to select Council President
16. Update on State of Nebraska’s potential biennium budget adjustments/possible impact on City of Wayne’s current and future budgets with pending municipal equalization funding eliminated for First Class Cities

Background: Wes testified at the Appropriations Committee on February 5th in opposition to the Governor’s proposed biennium budget cuts to the Department of Revenue. The Governor’s proposal is to eliminate all municipal equalization funding (MEF) for First Class Cities. The City received approximately \$747,000 in FY ’25 from this fund and is to receive \$695,000 for FY ’26. The City receives these funds since the general levy is above the state average and the City’s valuation is lower per capita. That proposed cut is more than 10% of all general fund revenues for the City of Wayne. Drastic changes would be needed to the City’s budget going forward if MEF is eliminated (maximum property tax increases, major general fund department cuts, or a combination thereof). Ironically, the State plans to use these MEF funds taken from First Class Cities to cut property taxes for the rest of the State.

17. Adjourn

**MINUTES
CITY COUNCIL MEETING
February 2, 2026**

The Wayne City Council met in regular session at City Hall on February 2, 2026, at 5:30 o'clock P.M.

Mayor Jill Brodersen called the meeting to order, followed by the Pledge of Allegiance, with the following in attendance: Councilmembers Austyn Houser, Parker Bolte, Dwaine Spieker, Brittany Webber, Joe Whitt, Jason Karsky, Dallas Dorey and Matt Eischeid; City Administrator Wes Blecke; City Clerk Betty McGuire; and City Attorney Amy Miller.

Notice of the convening meeting was given in advance thereof by publication in the Wayne Herald, Wayne, Nebraska, the designated method of giving notice, as shown by Affidavit of Publication. In addition, notice was given to the Mayor and all members of the City Council, and a copy of their acknowledgement of receipt of notice and agenda is on file with the City Clerk. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the Council convened in open session.

Mayor Brodersen advised the public that a copy of the Open Meetings Act was located on the west wall of the Council Chambers, as well as on the City of Wayne website and was available for public inspection. In addition, she advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual, and if such individual has not requested a public hearing.

Mayor Brodersen proclaimed the month of March as "Problem Gambling Month."

Councilmember Houser made a motion, which was seconded by Councilmember Bolte, to approve the minutes of the meeting of January 20, 2026, and to waive the reading thereof. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: ACE HARDWARE & HOME, SU, 819.84; ACES, SE, 1,196.23; AMERITAS, SE, 72.00; AMERITAS, SE, 35.00; AMERITAS, SE, 4,929.22; AMERITAS, SE, 212.77; APPEARA, SE, 214.22; BERNAL, HERWIN, RE, 500.00; BOMGAARS, SU, 1,879.45; BSN SPORTS, SU, 579.96; BUILDERS RESOURCE, SE, 63.84; CARHART LUMBER COMPANY, SU, 5,525.36; CDW GOVERNMENT, SU, 1,985.40; CENGAGE LEARNING, SU, 106.56; CENTRAL SAND AND GRAVEL, SU, 663.34; CHEMQUEST, SE, 3,142.50; CINTAS, SU, 38.71; CIRBA SOLUTIONS SERVICES, SU, 1,475.00; CITY EMPLOYEE, RE, 99.82; CITY EMPLOYEE, RE, 194.82; CITY EMPLOYEE, RE, 95.00; CITY EMPLOYEE, RE, 45.88; CITY EMPLOYEE, RE, 4.70; CITY EMPLOYEE, RE, 122.06; CITY OF PONCA, RE, 15,464.14; CITY OF WAYNE, PY, 131,648.27; CITY OF WAYNE, RE, 589.08; CITY OF WEST POINT, RE, 22,444.18; CITY OF WISNER, RE, 2,338.96; CIVICPLUS, SE, 5,743.27; ;COLONIAL RESEARCH, SU, 45.79; COLORADO LIBRARY CONSORTIUM, FE, 75.00; CORE & MAIN LP, SU, 694.52; DAS STATE ACCTG-CENTRAL FINANCE, SE, 537.60; DAVIS FORD, SU, 344.99; DEARBORN LIFE INSURANCE COMPANY, SE, 75.68; DEMCO, SU, 307.61; DGR & ASSOCIATES, SE, 25,611.00; DUTTON-LAINSON COMPANY, SU, 852.96; GUARDIAN, SE, 805.60; HILAND DAIRY, SU, 112.51; HOMETOWN LEASING, SE, 375.26; ICMA, SE, 44.70; ICMA, SE, 221.23; ICMA, SE, 611.34; ICMA, SE, 280.16; ICMA, SE, 1,350.60; ICMA, SE, 11,213.99; ICMA, SE, 649.31; ICMA, SE, 245.66; ICMA, SE, 153.04; ICMA, SE, 284.67; ICMA, SE, 369.23; INGRAM LIBRARY SERVICES, SU, 1,557.06; IRS, TX, 21,752.70; IRS, TX, 13,868.08; IRS, TX, 5,087.22; JACK'S UNIFORMS, SU, 1,573.29; JEO CONSULTING GROUP, SE, 3,016.38; KELLY SUPPLY COMPANY, SU, 284.64; LEAGUE OF NEBRASKA MUNICIPALITIES, FE, 565.00; LYLE'S GARAGE DOOR SERVICE, SU, 537.00; MARCO, SE, 224.02; MARCO TECHNOLOGIES, SE, 273.82; MAX R, SU, 3,752.00; MCCORKINDALE, BRAYDN, SE, 80.00; MICHAEL TODD INDUSTRIAL SUPPLY, SU, 4,304.95; MIDWEST TAPE, SU, 3,698.67; NE DEPT OF REVENUE, TX, 5,669.29; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SE, 201.00; NORTHEAST POWER, SE, 30,397.86; O'REILLY AUTOMOTIVE STORES, SU, 6.99; O'REILLY AUTOMOTIVE STORES, SU, 303.63; OVERDRIVE, SU, 1,270.07; OVERHEAD DOOR, SU, 140.00; PCAN, FE, 200.00; PEERLESS WIPING CLOTH, SU, 492.20; PLAYAWAY PRODUCTS, SU, 69.99; PONCA RURAL FIRE BOARD, RE, 3,701.82; POSTMASTER, SU, 1,311.69; PREMIER BIOTECH, SE, 360.90; QUADIENT FINANCE USA, SU, 1,000.00; RETHWISCH, RICHARD, SE, 80.00; SILVER SILO DESIGN, SE, 124.74; SKARSHAUG TESTING LAB, SE, 453.24; STADIUM SPORTING GOODS, SE, 40.00; STAPLES, SU, 397.74; STATE NEBRASKA BANK-PETTY CASH, RE, 118.55; THRASHER, RE, 500.00; UTILITY EQUIPMENT, SU, 534.48; VARLEY, MICHAEL, RE, 150.00; VERIZON, SE, 639.84; VILLAGE OF WINSIDE, RE, 4,948.03; WAYNE HIGH SCHOOL, RE, 4,968.00; WAYNE VETERINARY CLINIC, SE, 84.00; WEBBER HOSPITALITY, SE, 5,868.75; WESCO, SU, 10,358.67; WINDOW WORLD OF NORTHEAST NEBRASKA, SE, 3,030.00; WISNER WEST, SU, 36.71; Y & Y LAWN SERVICE, SE, 1,021.25; ALTEC INDUSTRIES, SU, 170.68; AOI CORPORATION, RE, 1,000.00; BLUE CROSS BLUE SHIELD, SE, 58,289.99; CERTIFIED TESTING SERVICES, SE, 1,912.50; CITY OF PONCA, RE, 10,000.00; CITY OF WAYNE, RE, 88.82; CITY OF WEST POINT, RE, 10,000.00; CITY OF WISNER, RE, 10,000.00; DEARBORN LIFE INSURANCE COMPANY, SE, 3,531.77; EAKES OFFICE PLUS, SE, 81.52; FARMERS COOPERATIVE, SE, 20.00; GLOBAL PAYMENTS INTEGRATED, SE, 1,165.92; GROSSENBURG IMPLEMENT, SU, 201.75; GROSSENBURG IMPLEMENT, SU, 545.18; HEIMAN FIRE EQUIPMENT, SE, 62.62; JAN X EXPERTS IN JANITORIAL SUPPLY, SU, 1,118.42; JEO CONSULTING GROUP, SE, 448.87; KAUP FORAGE & TURF, SU, 227.50; LINCOLN WINWATER WORKS, SU, 67.00; MCCORKINDALE, BRAYDN, SE, 80.00; MILLER LAW, SE, 6,470.62; NORTHEAST POWER, SE, 5,451.00; OLSSON, SE, 1,200.00; O'REILLY AUTOMOTIVE STORES, SU, 5.99; O'REILLY AUTOMOTIVE STORES, SU, 204.09; PAC N SAVE, SU, 4.77; PAC N SAVE, SU, 1,487.05; PONCA RURAL FIRE BOARD, RE, 10,000.00; PREMIUM FOOD AND BEVERAGE, SU, 102.50; RETHWISCH, RICHARD, SE, 80.00; SKARSHAUG TESTING LAB, SE, 453.36; STAPLES, SU, 203.96; VILLAGE OF WINSIDE, RE, 10,000.00; WAYNE AMERICA, FE, 35.00; WAYNE COUNTY COURT, RE, 500.00; WAYNE COUNTY COURT, RE, 1,000.00; WAPA, SE, 27,197.20; WISNER WEST, SU, 99.79

Councilmember Bolte made a motion, which was seconded by Councilmember Houser, to approve the claims. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Webber who abstained on her claim only, the Mayor declared the motion carried.

Marcy Luth of AMGL presented the FY24-25 Audit.

Administrator Blecke, on behalf of Roger Protzman of JEO Consulting Group, Inc., presented Contractor's Application for Payment No. 7 in the amount of \$49,966.25 to Gehring Construction and Ready Mix Co., Inc., for the "Wayne 7th Street Trail Project." In addition, he updated the Council on the project.

Councilmember Webber made a motion, which was seconded by Councilmember Spieker, approving Contractor's Application for Payment No. 7 in the amount of \$49,966.25 to Gehring Construction and Ready Mix Co., Inc., for the "Wayne 7th Street Trail Project." Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Blecke, on behalf of Roger Protzman of JEO Consulting Group, Inc., presented Contractor's Application for Payment No. 3 in the amount of \$74,757.27 to Sargent Drilling for the "Well House and Municipal Well 2025-1 Project." In addition, he updated the Council on the project.

Councilmember Eischeid made a motion, which was seconded by Councilmember Webber, approving Contractor's Application for Payment No. 3 in the amount of \$74,757.27 to Sargent Drilling for the "Well House and Municipal Well 2025-1 Project." Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Blecke, on behalf of Roger Protzman of JEO Consulting Group, Inc., presented Contractor's Application for Payment No. 4 in the amount of \$161,072.37 to Otte Construction for the "Well House and Municipal Well 2025-1 Project."

Keith Moje, representing Otte Construction, was present to update the Council on the project.

Councilmember Houser made a motion, which was seconded by Councilmember Bolte, approving Contractor's Application for Payment No. 4 in the amount of \$161,072.37 to Otte Construction for the

“Well House and Municipal Well 2025-1 Project.” Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Kirby Hall, representing the Wayne High School Post Prom Committee, was present to request Council consideration to allowing them to use the Community Activity Center again this year for their post prom event on Saturday, March 21, 2026, from 9:00 p.m. until 4:00 a.m. on March 22, 2026, and to waive the rental fee.

After discussion, Councilmember Webber made a motion, which was seconded by Councilmember Spieker, approving the request of Kirby Hall, representing the Wayne High School Post Prom Committee, to use the Community Activity Center for their post prom event on Saturday, March 21, 2026, from 9:00 p.m. until 4:00 a.m. on March 22, 2026, and to waive the rental fee. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Anthony Cantrell, on behalf of the Wayne High School, and in conjunction with EVERON (Electric Vehicle Energy Research of Nebraska), was present requesting Council consideration to closing off a portion of East 10th Street 200’ east of Angel Avenue to Hillside Drive for an electric vehicle power drive rally (State Championship) on Saturday, May 2nd, from 7:00 a.m. until 5:00 p.m.; use of the parking lot at 1100 E 10th Street; use of the electricity to run the event and charge batteries following the event via the outside electrical outlets; and street sweep 10th Street and the parking lot at 1100 E 10th Street.

Councilmember Spieker made a motion, which was seconded by Councilmember Bolte, approving the request of Anthony Cantrell, on behalf of the Wayne High School, and in conjunction with EVERON (Electric Vehicle Energy Research of Nebraska), to close off East 10th Street 200’ east of Angel Avenue to Hillside Drive for the 2026 Power Drive State Championship on Saturday, May 2nd, from 7:00 a.m. until 5:00 p.m.; use of the parking lot at 1100 E 10th Street; use of the electricity to run the event and charge batteries following the event via the outside electrical outlets; and street sweep 10th Street

and the parking lot at 1100 E 10th Street. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Brodersen declared the time was at hand for the public hearing on the One and Six Year Street Improvement Program.

Joel Hansen, Street and Planning Director, presented the One and Six Year Street Improvement Program. This is a yearly requirement to receive Highway Allocation Funds from the Nebraska Department of Transportation. Just because a project is in the One and Six Year Street Improvement Plan does not mean the project has to be done that year. However, if the City would want to do a project that is not in the One and Six Year Street Improvement Plan, another public hearing would have to be held to amend the plan.

Upcoming projects, which include some carry-over projects from previous year(s), include the following:

<u>Project Number</u>	<u>Project Year</u>	<u>Improvement</u>	<u>Estimated Cost</u>

M – 617(89)	2026	Fairground Avenue extension and Waters Edge Circle – 700’ Construct Concrete Paving, Curb & Gutter, Storm Sewer	\$350,000

M – 617(115)	2027	W. 3 rd Street from Oak Dr. to 250’ E. of Oak Dr. – 250’ Construct Concrete Paving, Curb & Gutter	\$ 70,000

M – 617(129)	2028	Fairgrounds Avenue from S. Main to S. Nebraska & from Dead End to Prairie Park – 915’ Construct Concrete Paving, Curb & Gutter, Storm Sewer	\$800,000

M – 617(131)	2029	E. 21 st Street from Vintage Hill Drive to Centennial Road and Centennial Road from E. 14 th to E. 21 st – 4,500’ Construct Concrete Paving, Curb & Gutter, Storm Sewer	\$ 1,500,000
M – 617(132)	2029	E. 4 th Street and Thorman Street – 2,300’ Construct Concrete Paving, Curb & Gutter, Storm Sewer	\$900,000
M – 617(135)	2029	Centennial Road from E. 4 th to E. 14 th Widening – 3,900’ Construct Concrete Paving, Curb & Gutter, Storm Sewer	\$500,000
C – 90(162)	2029	Bridge #11620 2x4 District 1 – 0.1 Mile	\$900,000

M – 617(107)	2030	Clark Street & S. Pearl Street. – 745’ Construct Concrete Paving, Curb & Gutter, Storm Sewer	\$350,000
M – 617(114)	2030	W. 2 nd Street from Blaine St. to 360’ E of Blaine St. – 380’ Construct Concrete Paving, Curb & Gutter, Storm Sewer	\$180,000
M – 617(98)	2030	Sherman Street from W. 5 th St. to W. 6 th St. – 300’ Construct Concrete Paving, Curb & Gutter, Storm Sewer	\$140,000
M – 617(113)	2030	Sherman Street from W. 3 rd St. to W. 4 th St. – 300’ Construct Concrete Paving, Curb & Gutter	\$140,000

M – 617(127)	2031	Downtown Alleys – 2,880’ Overlay and Concrete Paving	\$500,000
M – 617(130)	2031	W. 11 th Street from Main to Sherman – 1,550’ Construct Concrete Paving, Curb & Gutter, Storm Sewer	\$850,000
M – 617(120)	2031	Northern Ridge Drive from Highway 15 to W. 21 st St. – 1,800’ Construct Concrete Paving, Curb & Gutter, & Storm Sewer	\$800,000
M – 617(119)	2031	South Windom Street from 232’ S of Folk St. to 333’ S of Folk St. Construct Concrete Paving, Curb and Gutter – 101’	\$25,000
M – 617(133)	2031	E. 10 th Street from Schreiner Drive to east end of Viken Park Reconstruct Concrete Paving, Curb and Gutter – 200’	\$200,000

			\$8,205,000

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

There being no further comments, Mayor Brodersen closed the public hearing.

Councilmember Spieker introduced Resolution No. 2026-10 and moved for its approval;
Councilmember Bolte seconded.

RESOLUTION NO. 2026-10

A RESOLUTION APPROVING THE ONE AND SIX YEAR STREET IMPROVEMENT PROGRAM (PROPOSAL WITH PROJECTS FROM 2026 – 2031).

Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Taylor Kube, representing Olsson, was present to review the plans and specifications for the “Wayne Prairie Park – Phase 4C Project.”

This project will consist of the construction of 3 baseball/softball fields along with accompanied grading, paving and utilities and all other associated work described in the plans and specifications. The estimated project cost is \$1,529,094.

Councilmember Bolte introduced Resolution No. 2026-11 and moved for its approval; Councilmember Houser seconded.

RESOLUTION NO. 2026-11

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE “WAYNE PRAIRIE PARK - PHASE 4C PROJECT” AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS.

Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

The Northeast Nebraska Public Health Department (NNPHD) has offered to give the City its existing Kohler generator from its previous Pearl Street location. The City would use it at the old City Hall/PD, as there is still a need for backup power there for the communications equipment. Staff was looking to budget for a replacement generator at 306 Pearl Street next year, as it is showing its age during maintenance. It will still cost about \$20,000 to make all the upgrades with the used generator. Staff assumes a new one would cost about double that, fully installed.

Colleen Hupke, Director of NNPHD, and JJ Jackson, NNPHD Emergency Response Coordinator, were present to answer questions.

Councilmember Webber introduced Resolution 2026-12, and moved for its approval; Councilmember Bolte seconded.

RESOLUTION NO. 2026-12

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE NORTHEAST NEBRASKA PUBLIC HEALTH DEPARTMENT REGARDING THE DONATION OF A GENERATOR LOCATED AT 215 PEARL STREET.

Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

On January 5th, Council approved sending a “Letter of Intent” to the Nebraska Department of Economic Development for a planning grant to be used to explore opportunities at the 1100 E 10th Street building. This item would approve submitting the full grant application, which is due February 15th. This grant is a 1:1 match. It was reiterated that this grant is for planning purposes only at this point.

Councilmember Houser introduced Resolution No. 2026-13, and moved for its approval; Councilmember Bolte seconded.

RESOLUTION NO. 2026-13

A RESOLUTION AUTHORIZING CHIEF ELECTED OFFICIAL TO SIGN AN APPLICATION FOR CIVIC AND COMMUNITY CENTER FINANCING FUND PLANNING GRANT.

Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Blecke stated ALLO is planning to discontinue its traditional cable/video product in 2026. They will be replacing it with a superior DIRECTV streaming platform. Since ALLO's access to public ROW within the City was granted through a Cable Franchise Agreement, the City will need to execute a new agreement that is not premised upon ALLO offering traditional cable service. This Master Right-of-Way Agreement will ensure the City's future fee receivable remains consistent, and that all parties maintain their current rights.

Councilmember Houser introduced Ordinance No. 2026-1, and moved for its approval; Councilmember Webber seconded.

ORDINANCE NO. 2026-1

AN ORDINANCE APPROVING A NON-EXCLUSIVE PUBLIC RIGHT-OF-WAY LICENSE AGREEMENT WITH ALLO ASSET ENTITY 1, LLC, A NEBRASKA LIMITED LIABILITY COMPANY (“ALLO”), ITS SUCCESSORS AND ASSIGNS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Luke Virgil, Economic Development Director, advised the Council that Breland and Jennifer Ridenour (Blends & Boards) are requesting an amendment to their LB840 Loan Agreement to allow for a 12-month payment deferment and an update to their amortization schedule. The deferment request is the result of their decision to close the business due to changes in their personal life.

It was noted that Council has approved amendments for other LB840 Loan recipients, including Wayne Area Events Center (changed to interest-only payments for 3 years and extended repayment term) and Rainbow World Child Care Center (balloon payment changed to 10-year repayment). In addition, during the pandemic, Council offered payment deferments for one year to all LB840 loan recipients.

Jennifer Ridenour was present to answer questions. She thought she would know within 60-90 days what collateral they would have for this loan. The amount to be deferred would be \$6,100. It is a zero percent interest loan.

After some discussion, Councilmember Eischeid made a motion, which was seconded by Councilmember Karsky, to approve the request of Breland and Jennifer Ridenour (Blends & Boards) to defer their LB840 loan payments for one year and to update their amortization schedule as long as she (Jennifer Ridenour) contacts the City within 60-90 days with the appropriate collateral for the loan. Mayor Brodersen stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

There being no further business to come before the meeting, Mayor Brodersen declared the meeting adjourned at 6:32 p.m.



City of Wayne, NE

Council Approval Listing

Payment Date Range: 02/03/2026 - 02/11/2026

Council Approved 2/2/26

GEHRING CONSTRUCTION	7 TH ST TRAIL	49,966.25
OTTE CONSTRUCTION	WELL HOUSE	161,072.37
SARGENT DRILLING	WELL HOUSE	74,757.27

Vendor	Payable Description	Payment Total
ACE HARDWARE & HOME	REC BUILDING SUPPLIES/PAINT/TOOLS/FILTERS	3,393.16
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	5,752.46
AMERITAS LIFE INSURANCE	POLICE RETIREMENT 457 AMOUNT	72.00
AMERITAS LIFE INSURANCE	AMERITAS ROTH	247.43
AMERITAS LIFE INSURANCE	AMERITAS ROTH	35.00
APPEARA	LINEN & MAT SERVICE	316.53
ARBOR DAY FOUNDATION	2026 MEMBERSHIP DUES	100.00
ARC-HEALTH & SAFETY	RESCUE TRAINING	174.00
BERNAL, GEORGINA	INTERPRETER SERVICES	65.00
BUILDERS RESOURCE	SB COMPLEX GARAGE FLOOR	1,138.57
CHASE PAYMENTECH	CREDIT CARD TRANSACTION FEES	570.06
CHASE PAYMENTECH	BLDG CREDIT CARD TRANSACTION FEE	56.03
CHASE PAYMENTECH	CREDIT CARD TRANSACTION FEES	5,675.89
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	95.00
CITY EMPLOYEE	VISION REIMBURSEMENT	259.45
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	4,200.00
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	214.91
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	53.55
CITY OF NORFOLK	911 MISCELLANEOUS BILLING	130.48
CITY OF WAYNE	PAYROLL	139,805.27
CITY OF WAYNE	UTILITY REFUNDS	1,132.20
COTTONWOOD WIND PROJECT, LLC	WIND ENERGY	14,612.83
DAS STATE ACCTG-CENTRAL FINANCE	INTERNET POLE CHARGES/DISPATCH NETWORK FEE	119.73
DAVIS FORD	FIRE TRUCK 20 WARNING ALERT REPAIRS	961.15
DEARBORN LIFE INSURANCE COMPANY	LIFE/DISABILITY INSURANCE	3,531.77
DORCEY, JEAN	FREEDOM PARK DEPOSIT REFUND	150.00
DWEE-FISCAL SERVICES-IWM	2026 POOL PERMIT	40.00
EAKES OFFICE PLUS	CAC COPY CHARGES/EGOLDFAX CHARGES	233.87
ED M. FELD EQUIPMENT CO INC	AIR COMPRESSOR AIR TEST	300.00
EKBERG AUTO PARTS	TOWING CHARGE	245.00
ELLIS HOME SERVICES	ELECT. DIST BATHROOM TOILETS/SB COMPLEX WATER HEATER	2,784.13
FAST PIK	GASOLINE/TIRES	4,176.86
GROSSENBURG IMPLEMENT INC	HYDRAULIC OIL	72.28
HAWKINS, INC	CHLORINE/FLUORIDE FOR WELLS/ZETAG-WW TREATMENT	4,451.65
HILAND DAIRY	SENIOR CENTER FOOD SERVICE	326.14
ICMA RETIREMENT	ROTH IRA - ICMA	374.23
ICMA RETIREMENT	ROTH ICMA	649.31
ICMA RETIREMENT	ROTH ICMA	245.66
ICMA RETIREMENT	ROTH IRA-ICMA	284.67

ICMA RETIREMENT	ROTH IRA -ICMA	153.04
ICMA RETIREMENT	PAYROLL RETIREMENT	221.23
ICMA RETIREMENT	ICMA RETIREMENT	1,355.60
ICMA RETIREMENT	PAYROLL RETIREMENT	35,256.08
ICMA RETIREMENT	PAYROLL RETIREMENT	611.34
ICMA RETIREMENT	PAYROLL RETIREMENT	280.16
ICMA RETIREMENT	PAYROLL RETIREMENT	44.70
IRS	MEDICARE WITHHOLDING	6,134.02
IRS	FICA WITHHOLDING	26,228.08
IRS	FEDERAL WITHHOLDING	16,119.22
J. F. AHERN CO.	CAC SPRINKLER INSPECTION	385.00
JAN X EXPERTS IN JANITORIAL SUPPLY	JANITORIAL SUPPLIES	1,179.56
JEO CONSULTING GROUP	7TH ST TRAIL	1,527.60
KNUST CONSTRUCTION	BUILDING PERMIT DEPOSIT REFUND	500.00
KTCH AM/FM RADIO	CAC ADS	175.00
LINCOLN WINWATER WORKS CO.	HYDRANT HEADS	2,380.00
MCCORKINDALE, BRAYDN	MEN'S BASKEBALL REF	80.00
MICHAEL TODD INDUSTRIAL SUPPLY	BOLTS/WASHERS	923.78
MIDWEST LABORATORIES, INC	WASTEWATER ANALYSIS	192.57
MONAHAN, PHILLIP	REIMBURSE BIG 9 MUTUAL AID DUES	20.00
NAVIGATOR MOTORCOACHES, INC.	LEADERSHIP WAYNE TRIP TO LINCOLN	1,300.00
NE DEPT OF REVENUE	STATE WITHHOLDING	6,284.12
NE RURAL WATER	2026 MEMBERSHIP DUES	550.00
NEBRASKA JOURNAL LEADER	AUDITORIUM AD	144.46
NEBRASKA PUBLIC POWER DIST	TRANSMISSION SUBSTATION CHARGES/METER REPORTS	8,321.62
NORTHEAST NE INS AGENCY INC	PROPERTY INSURANCE	177,224.50
ONE CALL CONCEPTS, INC	DIGGERS HOTLINE	29.09
OPTK NETWORKS	POLICE ETHERNET SERVICES	531.54
O'REILLY AUTOMOTIVE STORES, INC.	SENSOR	88.90
PLUNKETT'S PEST CONTROL	PEST CONTROL	60.00
PREMIUM FOOD AND BEVERAGE	VENDING MACHINE SNACKS	849.08
QUADIENT, INC	POSTAGE INK/METER TAPE	217.55
REELSTRONG LLC	SELF LOADING TRAILER	15,400.00
RETHWISCH, RICHARD	MEN'S BASKETBALL REF	80.00
SCHWARZENBACH, ROBERT	FREEDOM PARK DEPOSIT REFUND	150.00
STAPLES, INC	OFFICE SUPPLIES	219.16
STATE NEBRASKA BANK & TRUST	MONTHLY ACH FEE	69.68
TRI-STATE COMMUNICATIONS, INC.	BATTERIES	220.80
US BANK	REC BUILDING BATHROOM HARDWARE/PAINT/LODGING/TECH SUPPLIES	11,312.63
US FOODSERVICE, INC.	SENIOR CENTER NOON MEAL SUPPLIES	2,168.31
WASTE CONNECTIONS	SANITATION BILLING	46.50
WAYNE AUTO PARTS	GAS BILLS FOR MAIN ST BUILDING 10/22/25-1/15/26	672.92
WAYNE AUTO PARTS	SOLAR BATTERIES/SPARK PLUGS/BOOSTER PACK	861.38
WAYNE HERALD	CAC ADS	364.00
WAYNE HERALD	GREEN TEAM ADS	190.00
WAYNE VETERINARY CLINIC	CAT IMPOUND	70.00
WESCO DISTRIBUTION INC	10KVA TRANSFORMER/METER SOCKETS	3,015.26
WISNER WEST	FD GASOLINE	124.19
ZACH HEATING & COOLING	AUDITORIUM CALL OUT FEE/FORKLIFT PROPANE	107.62
Grand Total:		807,282.45

REQUEST FOR FUTURE AGENDA ITEM

If you have a specific topic that you would like the City Council to discuss at a future meeting, please list your name, address, telephone number, and the specific topic. If you have additional documentation which would be beneficial to the topic, please attach to this form. The item will be reviewed and possibly scheduled for a future meeting, or forwarded to City staff for appropriate action. Please return this form and any additional information to the City Clerk's office at 306 Pearl Street.

Event insurance is required for anyone wishing to use city right-of-way (e.g. block off streets for block parties, block off sidewalks and/or alleys).

Name: Luke Virgil on behalf of Wayne America Inc.



Address: 108 W 3rd, Wayne, NE 68787

Telephone No: 402.375.2240 or 402.480.0269

Date of Request: Feb. 11, 2026

Description of Requested Topic: Wayne America Inc. is requesting a waiver of \$600 in rental fees at the City Auditorium. The organization has reserved the City Auditorium on March 6 & March 7, 2026, so its Special Events Committee can host a Community Garage Sale (details included). Wayne America Inc. will provide the required \$200 security deposit. Wayne America Inc. is asking garage sale vendors to pay a \$20 fee, and all vendor fees will be donated to Haven House.

COMMUNITY GARAGE SALE



Indoor Booths at the Wayne Auditorium

FRIDAY, MARCH 6 | 10:00AM-7:00PM

SATURDAY, MARCH 7 | 8:00AM-2:00PM



**WAYNE
AMERICA**

**CITY AUDITORIUM
220 PEARL STREET
WAYNE, NE**

**WAYNE
AMERICA**

Mar 6 at 10 AM – Mar 7 at 2 PM

Community Garage Sale: Wayne Auditorium

Wayne City Auditorium

About

Discussion

☆ Interested

Details

 55 people responded



 Event by **Wayne America**

 **Wayne City Auditorium**

 Duration: 2 days

 Public · Anyone on or off Facebook

Declutter, discover treasures, and connect with the community at Wayne America Inc.'s Indoor Community Garage Sale! Join us at the Wayne City Auditorium for two full days of bargain hunting and booth browsing.

 Friday, March 6 | 10:00 AM – 7:00 PM

 Saturday, March 7 | 8:00 AM – 2:00 PM

This indoor event makes garage sale shopping comfortable and convenient, no matter the weather. Whether you're searching for hidden gems or clearing out closets, this is the perfect opportunity to participate.

Interested in hosting a booth?

 Email info@WayneAmerica.org to register, and we'll send you a booth contract with all the details.

Gather your items, invite your friends, and join us for a fun, community-wide garage sale experience right here in Wayne! **See less**

Screenshot

RESOLUTION NO. 2026-14

A RESOLUTION APPROVING AGREEMENT WITH JEO CONSULTING GROUP, INC., FOR PROFESSIONAL SERVICES RELATING TO THE “2026 WATER IMPROVEMENT – LOGAN, NEBRASKA AND WINDOM STREET (7TH TO 10TH STREET) PROJECT.”

WHEREAS, the City will be undertaking a water improvement project (Logan, Nebraska and Windom Street – 7th to 10th Street); and

WHEREAS, the Wayne City Council is desirous of entering into an agreement with JEO Consulting Group, Inc., for professional services relating to this water improvement project; and

WHEREAS, a proposal has been requested and received from JEO Consulting Group, Inc., to provide engineering design services for the proposed improvements; and

WHEREAS, the fee for preliminary and final design and bidding totals \$157,000; and

WHEREAS, said amount above does not include the 5% discount as per the Master Services Agreement entered into on July 2, 2019, which would then bring the fees to \$149,150.00; and

WHEREAS, staff recommendation is to accept the proposal of JEO Consulting Group, Inc., for said services for the above-named project.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that the Agreement for the engineering services for the “2026 Water Improvement – Logan, Nebraska and Windom Street Projects (7th to 10th Street) be accepted as recommended, and the Mayor be and he hereby is authorized to execute the agreement for said services on behalf of the City.

PASSED AND APPROVED this 16th day of February, 2026.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk



**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of the date signed by the Owner ("Effective Date") between City of Wayne, Nebraska ("Owner") and JEO Consulting Group, Inc. ("Engineer").

Owner's project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

2026 Water Improvements (JEO Project # 200390.00)

Owner and Engineer further agree as follows:

ARTICLE 1 - SERVICES OF ENGINEER

1.01 Scope

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 - OWNER'S RESPONSIBILITIES

2.01 Owner Responsibilities

- A. Owner responsibilities are outlined in Section 3 of Exhibit B.

ARTICLE 3 - Compensation

3.01 Compensation

- A. Owner shall pay Engineer as set forth in Exhibit A and per the terms in Exhibit B.
- B. The fee for the Project is:

Preliminary Design:	\$ 93,000	Lump Sum
Final Design:	\$ 54,000	Lump Sum
Bidding:	\$ 10,000	Lump Sum

Total Basic Services: **\$ 157,000**

- C. The Standard Hourly Rates Schedule shall be adjusted annually (as of approximately January 1st) to reflect equitable changes in the compensation payable to Engineer. The current hourly rate schedule can be provided upon request.

ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS

4.01 Exhibits

Exhibit A – Scope of Services

Exhibit B – General Conditions

5.02 Total Agreement

- A. This Agreement (consisting of pages 1 to 2 inclusive, together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Owner: City of Wayne, Nebraska

Engineer: JEO Consulting Group, Inc.

By: _____

By: Roger Protzman

Title: _____

Title: Project Manager

Date Signed: _____

Date Signed: 4/30/2025

Address for giving notices:

Address for giving notices:

City of Wayne

JEO Consulting Group, Inc.

513 Main Street

404 South 25th Street, Suite B

PO Box 8

Norfolk, NE 68701

Wayne, NE 68787

**EXHIBIT A
SCOPE OF SERVICES**

**2026 WATER IMPROVEMENTS
WAYNE, NEBRASKA
JEO PROJECT # 200390**

PROJECT DESCRIPTION/ASSIGNMENT:

Water Main Replacements for Wayne, Nebraska: Provide engineering design services for the water main replacement along, Logan, Nebraska, and Windom from 7th Street to 10th Street. These improvements include about 3,750 linear feet of new 6" and 8" PVC Water Main in the area shown on the enclosed figures. The proposed agreement would be for survey, engineering, and bid letting services. Construction services would be negotiated in the future and added by amendment. It also includes five lead service lines in the community and replacing water services to the curb stop.

SCOPE OF SERVICES:

A. Basic Services

I. Preliminary Design Phase

- A. Kick-off Meeting with Owner (1 meeting). Meeting review to include:
 - i. Review the scope, schedule, and project requirements.
 - ii. Review the proposed water alignment.
 - iii. Review the existing services and existing water mains in the area that may be affected and need connection to the new water main.
- B. Topographical Survey
 - i. Once Owner has provided confirmation to the Engineer of the proposed water alignment and both Owner and Engineer are comfortable with the proposed improvement locations, Engineer will initiate the topo survey of the improvements.
 - ii. Contact Diggers Hotline to request utility locates for the project area, as needed.
 - iii. Commence the topographic survey for the proposed improvements and review the county GIS system to obtain approximate property line locations, as needed.
 - iv. Draft the topo survey in AutoCAD.
- C. Prepare a 30% preliminary set of plans and conduct a plan-in-hand review in the field to confirm the proposed layout and existing drawing information.
- D. Perform an internal quality assurance and quality control (QA/QC) review of the 30% complete plans and specifications. Revise the plans according to comments received.
- E. Review and coordinate proposed water main alignment with the proposed NDOT plans.
- F. Prepare 70% preliminary plans and specifications. Plans and specifications to include:
 - a. General location maps.
 - b. Survey control sheets.
 - c. Water Main Plan and Profile sheets with corresponding technical specifications.
- G. Perform an internal quality assurance and quality control (QA/QC) review of the 70% complete plans and specifications.
- H. Present completed 70% preliminary design to Owner and review in detail with the Owner's designated representative(s). Review proposed equipment and preliminary opinion of cost. (1 meeting).

EXHIBIT A

II. Final Design Phase

- A. Revise plans and specifications based on the QA/QC comments and the 70% design meeting with the owner.
- B. Prepare 90% complete plans and specifications. Plans and specifications to include:
 - a. Revised and advanced plan sheets from the 70% complete set.
 - b. Insertion of design detail sheets.
 - c. Completion of the special provisions section of the specifications.
- C. Perform an internal quality assurance and quality control (QA/QC) review of the 90% complete plans and specifications.
- D. Revise the plans and specification in accordance with the review comments.
- E. Prepare NDOT Occupy Right of Way permits for the proposed improvements.
- F. Finalize construction drawings and specifications subject to Owner's approval.
- G. Prepare a list of final construction quantities and furnish an Engineer's Opinion of Cost.
- H. Present completed final documents (Plans, technical Specifications, and quantities) to Owner for review, approval, and review in detail by attending up to one (1) meeting with Owner, as necessary, to present Final Design Documents and Opinions of Cost.
- I. Submit final plans, specifications, and bid documents to Nebraska Department of Water, Energy and Environment (DWEE). Owner to pay any required review fees.
- J. Incorporate regulatory agency comments into final design plans and specifications with revised documents or prepare addendum as appropriate.

III. Bidding and Negotiation Phase

- A. Furnish copies of plans, specifications, and contract documents of the project to prospective bidders, material suppliers, and other interested parties upon their request and payment of the purchase cost established for the documents.
- B. Respond to inquiries from prospective bidders and prepare any addenda required.
- C. Assist the Owner in securing construction bids for the project.
- D. Assist the Owner at the bid opening. (1 meeting)
- E. Tabulate and analyze construction bids and report on them to the Owner, together with advice and assistance to the Owner in award of construction contract.
- F. Write a Recommendation Letter to the Owner for project award approval.
- G. Prepare Contract Documents for execution by Contractor and the Owner, and approval by Owner and Owner's legal and insurance counsel.

IV. Meetings Included in the Basic Services

- A. Kick-off Meeting. (1 meeting)
- B. 70% Review Meeting with City's Designated Representative(s). (1 meeting)
- C. Present Final Plans to City Council for approval. (1 meeting)
- D. Bid Opening (1 meeting)

EXHIBIT A

B. Assistance Services Provided as additional hourly services or to be negotiated later

I. Construction Administration Phase

- A. Schedule and conduct one Pre-construction Conference, on site, for all the proposed improvements. (1 meeting)
- B. Provide horizontal and vertical control for the project. Set stakes for line, grade, and location of proposed improvements.
- C. Provide interpretation of the plans and specifications, when necessary.
- D. Review shop drawings and related data supplied by the Contractor.
- E. Process Contractor's monthly payment estimates and present to Owner and review.
- F. Consult with and advise Owner during construction.
- G. Recommend to the Owner the acceptance of the projects, and complete the necessary certificates. These recommendations will be based on the Engineer's observation of construction utilizing professional judgment and accepted tests to determine that the Contractor has completed their contracts in substantial compliance with the plans, specifications and contract documents.
- H. Prepare Record Drawings.
- I. Send completion notice to NDEE.

II. Resident Project Representative (RPR)

- A. Assist with the construction observation of construction for the water main.
- B. JEO will furnish a Resident Project Representative (RPR) to observe construction progress and quality of the work for the water main.
- C. The duties and responsibilities of the RPR are generally described as follows:
 - 1. Review of contractors work for general compliance with the plans and specifications.
 - 2. Complete Construction Observation Reports when on site.
 - 3. Coordinate pay quantities with Contractor and Engineer.
 - 4. Assist in the review of shop drawings.
 - 5. Review of materials delivered to the site for specification compliance.
 - 6. Assist the Engineer in interpretation of the plans and specifications to the contractor.
 - 7. Review and coordinate materials testing by assigned testing firm.
 - 8. Attend pre-construction and progress meetings.
 - 9. Compile records for use in preparing record drawings.

III. Meetings Included in the Assistance Services

- E. Construction Meetings, as needed.

C. Additional Services Not Included, But Could Be Negotiated If Needed

- A. Floodplain, Corps 404, Migratory Bird Studies, or other environmental permitting, not outlined in the scope of services.
- B. SWPPP Permit should not be needed unless project changes to disturb more than 1 acre of soil. SWPPP services will be negotiated as an additional service if needed.
- C. All permitting costs are the responsibility of the owner.
- D. Materials testing during construction is the responsibility of the owner. JEO will assist the owner in hiring a testing company if desired.
- E. Meetings not outlined in the scope of services.
- F. Any other item not outlined in the scope of services.

EXHIBIT A

D. Estimated Time Frame

- A. Preliminary Design Phase – 75 calendar days from authorization to proceed.
- B. Final Design Phase – 75 calendar days following acceptance of preliminary design.
- C. Bidding & Negotiation Phase – TBD.
- D. Construction Phase – TBD

RESOLUTION NO. 2026-15

A RESOLUTION ADOPTING TITLE VI – NON-DISCRIMINATION PLAN FOR THE CITY OF WAYNE PUBLIC TRANSIT PROGRAM.

WHEREAS, the City of Wayne Public Transit operates a public transit program serving the residents of Wayne; and

WHEREAS, as a condition of receiving Federal financial assistance to operate these services, the City must ensure that its programs, policies, and activities comply with Title VI of the Civil Rights Act.

NOW, THEREFORE, BE IT RESOLVED, that the Wayne City Council does hereby adopt and bind itself to comply with all of the rules and regulations of the Title VI Non-Discrimination Plan, a copy of which is attached hereto and incorporated herein by reference, and authorizes the Mayor to execute said Plan on behalf of the City.

PASSED AND APPROVED this 16th day of February, 2026.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

Federal Transit
Administration

Title VI Program

Wayne Public Transit

2026

Reviewed and Approved by

Wayne City Council
Wayne Public Transit

Date

Commented [SM1]: Questionnaire listed the agency name as Wayne City Transit, previous Title VI Plan has Wayne Public Transit, and the website has City of Wayne Public Transit System.

Recommend confirming the name of the agency and revising throughout, as appropriate.

Commented [SM2]: Mayor to sign and date



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Appendices

- A. Wayne Public Transit Title VI Notice
- B. Wayne Public Transit Title VI Discrimination Complaint Form
- C. Wayne Public Transit Four-Factor Analysis and Language Assistance Plan
- D. Wayne Public Transit Title VI Complaint Investigation Log

Non-Discrimination Statement of Policy

Under Title VI of the Civil Rights Act of 1964 and related statutes, Wayne Public Transit is committed to ensuring that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, denied the benefits or services of, or be otherwise subjected to discrimination in all programs, services, or activities administered by Wayne Public Transit.

Jill Broderson
Mayor
Wayne Public Transit

Commented [SM3]: Mayor to sign and date

Date

All entities who receive Federal Transit Administration (FTA) grant dollars either directly from the FTA or through the Nebraska Department of Transportation (NDOT) are subject to the Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the U.S. Department of Transportation's implementing regulations. This manual provides technical assistance on Title VI compliance requirements.

1 Introduction and Overview

1.1 Plan Statement

Wayne Public Transit operates a demand response public transit program serving the residents of Wayne, Nebraska. As a condition of receiving federal financial assistance to operate these services, the agency ensures that its programs, policies, and activities comply with Title VI of the Civil Rights Act of 1964. The following program details how Wayne Public Transit meets the Title VI requirements set forth in the Federal Transit Administration (FTA) Circular 4702.1B.

Wayne Public Transit receives federal FTA funding through the Nebraska Department of Transportation (NDOT) Transit Section. NDOT administers Wayne Public Transit FTA transit service funding and provides all Title VI program oversight for Wayne Public Transit.

1.2 Policy

Section 601 under Title VI of the Civil Rights Act of 1964 states the following:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Wayne Public Transit is committed to ensuring that no person, on the basis of race, color, or national origin, shall be excluded from participation in or subjected to discrimination under its programs or services, or be denied the benefits of the level and quality of transit services provided by the agency's employees, affiliates, and contractors.

1.3 Authorizing Legislation

Most federal transit laws are codified at Title 49 U.S.C. Chapter 53. Authorizing legislation is substantive legislation enacted by Congress that establishes or continues the operation of a federal program or agency. FTA's most recent authorizing legislation is entitled the *Bipartisan Infrastructure Law*, signed into law on November 15, 2021.

1.4 How to Contact FTA and Wayne Public Transit

For more information regarding Wayne Public Transit's Title VI Program, please contact the agency at:

Wayne Public Transit
Attn: Diane Bertrand
410 North Pearl Street
Wayne, NE 68787
402-375-1460
dbertrand@cityofwayne.org

FTA may be contacted at:

Federal Transit Administration
Region 7
901 Locust Street, Suite 404
Kansas City, MO 64106
Phone: 816-329-3920

or

Federal Transit Administration
Office of Civil Rights
Attention: Title VI coordinator
East Building, 5th Floor-TCR
1200 New Jersey Ave., SE,
Washington, D.C. 20590

NDOT may be contacted at:

Nebraska Department of Transportation
Kimberly Baker, Civil Rights Compliance Manager
1500 Nebraska Parkway
P.O. Box 94759
Lincoln, NE 68509-4759
402-479-4544
ndot.civilrights@nebraska.gov

1.5 Governing Body

The governing body of Wayne Public Transit comprises the mayor of Wayne and eight elected City Council members representing the service area.

1.6 FTA Circular 4702.1B

Wayne Public Transit's Title VI Plan has been developed to address FTA's Title VI requirements and oversight responsibilities. The plan follows the guidelines set forth in FTA Circular 4702.1B.

2 General Reporting Requirements

2.1 Assurances

Wayne Public Transit annually submits its Certifications and Assurances to NDOT. NDOT collects Wayne Public Transit's Title VI Assurances prior to passing through FTA funds.

2.2 Prepare and Submit a Title VI Program

Wayne Public Transit submitted its previous Title VI Program to the NDOT Civil Rights Office in March 2023. The current Title VI Program is intended to fulfill submission requirements for the 2026–2029 reporting period.

The Wayne City Council will review and approve the current Title VI Program prior to its submission to NDOT. This approval is documented via the signature line on the cover of this Title VI Program, and subsequent documentation will be submitted with Wayne Public Transit's Title VI Program. The effective date of the Program will be the date of the resolution.

Wayne Public Transit will submit its Title VI Program to the NDOT Civil Rights Office for review and approval.

2.3 Title VI Notice

Wayne Public Transit complies with Title VI and notifies the public of the protections against discrimination afforded to them by Title VI. The notice is posted in the following public locations: (a) on the Wayne Public Transit website (<https://www.cityofwayne.org/137/Handi-Van>); (b) at a visible public location at Wayne Public Transit's office; and (c) at a visible location in transit vehicles. This notice has been translated in accordance with NDOT's limited English proficiency (LEP) plan.¹ See **Appendix A** for a copy of Wayne Public Transit's Title VI notice to the public.

2.4 Title VI Complaint Procedure and Complaint Form

Wayne Public Transit has adopted the NDOT procedures and forms for investigating and tracking Title VI complaints of discrimination. The following complaint procedures are patterned after the FTA's requirements and guidance.

All FTA-related Title VI complaints filed against Wayne Public Transit are forwarded to both the NDOT Civil Rights Compliance Manager and the NDOT Transit Program Manager in the Local Assistance Division for processing, in coordination with the NDOT Civil Rights Office. Wayne Public Transit will maintain a log of all complaints received (see **Appendix D**), including the following:

- The date the complaint was filed
- A description of the complaint
- Dates of all significant actions taken
- All correspondence with the complainant or respondent

NDOT will review all complaints for programs and activities receiving FTA financial assistance.

Wayne Public Transit's Title VI complaint procedures and forms are available to members of the public at <https://www.cityofwayne.org/137/Handi-Van> or by request. The Title VI Complaint Form has been translated in accordance with NDOT's LEP Plan and is provided in **Appendix B**.

The following section describes Wayne Public Transit's Title VI complaint procedures.

2.4.1 Filing a Transit-Related Complaint with Wayne Public Transit

Persons Eligible to File

Any person who believes they, or any program beneficiary, has been subjected to unequal treatment or discrimination in their receipt of transit benefits and/or services on the basis of race, color, or national origin may file a Title VI complaint with Wayne Public Transit. Complaints may be filed directly by the affected individual(s) or by a representative on their behalf.

Complaint Substance and Format

To file a complaint with Wayne Public Transit, complainants should complete and submit the agency's Title VI Complaint Form or submit a written letter containing the following information:

- The name(s) of the person(s) filing the complaint (the complainant)
- Mailing address and phone number of the complainant(s)

¹ <https://dot.nebraska.gov/media/ngflsav/ndot-limited-english-proficiency-plan.pdf>

- Name of the person(s) or entity alleged to have engaged in discrimination
- Date of the incident
- A detailed description of the incident
- An explanation of how the incident involved discrimination based on race, color, or national origin
- The names, mailing addresses, and phone numbers of witnesses or third parties to the incident
- Any additional information relevant to the complaint

A complaint may be filed on behalf of another person with their expressed written consent. The Title VI Complaint Form or letter of complaint must be signed by the complainant or by their authorized representative.

Time Frame for Filing Complaints

Complaints must be received no more than 180 calendar days after the alleged incident and must involve allegations of discrimination on the basis of race, color, or national origin to be investigated as an unlawful discriminatory practice under Title VI. FTA may grant an extension.

If Wayne Public Transit receives a complaint, Wayne Public Transit will submit the complaint to the NDOT Civil Rights Office for review.

After a complaint is received, an NDOT investigator will determine whether it meets the criteria and whether NDOT has jurisdiction. The complainant will receive an acknowledgement letter by mail about whether the investigation will proceed.

Processing and Investigating Complaints

NDOT strives to complete investigations within 90 days. At any time during the investigation, the investigator may request additional information to assist in the investigation of the incident. The complainant will be given 15 business days to respond to the request for additional information. If NDOT is not contacted by the complainant or does not receive the additional information within 15 business days, NDOT can administratively close the case. The case can be administratively closed if the complainant no longer wants to pursue the case.

Closing a Complaint

After NDOT reviews the complaint, one of two letters will be issued to the complainant: a closure letter or a letter of finding. A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed. A letter of findings summarizes the allegations and the interviews regarding the alleged incident and explains whether any disciplinary action, additional training of the staff member, or other action will occur. Complainants have 30 days to appeal the findings of the investigation.

Contact Information

Complaint forms are available on the Wayne Public Transit website at <https://www.cityofwayne.org/137/Handi-Van>. For additional questions regarding Wayne Public Transit's Title VI complaint procedures or Title VI Program, individuals may contact Wayne Public Transit at the contact information provided in Section 1.4. For more information on NDOT's Title VI complaints procedure or Title VI Program, or for assistance placing a complaint in writing or for language assistance, contact the NDOT Civil Rights Office at the contact information provided in Section 1.4.

2.4.2 Wayne Public Transit Title VI Complaint Form

See **Appendix B** for a copy of Wayne Public Transit's Title VI Discrimination Complaint Form.

2.5 List of Title VI Investigations, Complaints, and Lawsuits

As of the current Title VI Program submission, no transit-related complaints specific to Title VI were filed; therefore, there are no incidents to track or report. Wayne Public Transit would use the Complaint and Lawsuit Tracking Form in **Appendix D** to conduct an investigation, receive a complaint, or file a lawsuit alleging discrimination on the basis of race, color, or national origin. Wayne Public Transit will report all Title VI complaints to the NDOT Civil Rights Office and FTA.

2.6 Inclusive Public Participation

Wayne Public Transit's public involvement strategy is intended to promote awareness and provide ample opportunity for the public to participate in Wayne Public Transit's transportation decision-making surrounding projects, fares and/or service charges, and application for federal operating assistance. Examples include the following:

- Ensuring the timely dissemination of information to the public
- Considering the input and encouraging the participation of underserved groups in Wayne Public Transit's transportation decision-making process
- Granting timely public notice and an adequate review period through this process
- Facilitating adequate public review of major project revisions
- Granting the opportunity for the review of proposed and final plans
- Encouraging and documenting public comment

For these purposes, Wayne Public Transit will announce and hold a public hearing in the event of a fare increase, major change in service, or capital construction project. Additionally, Wayne Public Transit will provide adequate public notice in the event of a vehicle purchase or when submitting an application for state or federal operating assistance funds with no major service changes or fare increases.

For the purpose of definition, a major change or reduction service will include a reduction in total system vehicle-hours of 10 percent or more, the elimination of service in an area with a population of 2,000 or more, the elimination of service on one or more days of the week, or a change in the type of transit service in an area with a population of 2,000 or more. A fare increase will include an increase in single ride fare for any transit service including other fare categories or a decrease in the discount(s) offered for fare categories.

Public hearings will be advertised in a newspaper of general circulation in the geographic area the project will serve at least 15 calendar days in advance of the public hearing, and the comment period will extend 15 days following the public hearing. Notice of hearings will include a concise description of the proposed project and will advertise the availability of translated copies of said hearing notice and/or other publicly released meeting documents in accordance with Wayne Public Transit's Language Assistance Plan (LAP). Hearings will be held in accessible locations and at times convenient for public attendance.

Written or verbal comments from the public will be accepted during and for at least 15 days following the public hearing. These comments will be reviewed as part of the agency's decision-making process surrounding transportation projects.

An agency staff member will record and prepare formal minutes of the public hearing. These minutes will be available to the public on request. Translations of these minutes, as well as other publicly released meeting documents (e.g., announcements, surveys, comment cards), will be made available to members of the public on request. The availability of translated minutes and other public documents will be advertised on the agency's public hearing notice.

2.6.1 Summary of Past Outreach Efforts

Wayne Public Transit routinely performs outreach to the public through a number of outlets (for example, advertising on the local radio station, posting on social media, updating the website, disseminating the senior center newsletter).

Wayne Public Transit personnel report no interactions with persons of limited English proficiency – an estimate supported by the LAP four-factor analysis. Nonetheless, the agency's current public participation strategy has been reviewed and revised to provide opportunities for meaningful access and participation by persons of limited English proficiency.

2.7 Providing Meaningful Access to LEP Persons

Wayne Public Transit provides transportation to the public in Wayne, Nebraska. Wayne Public Transit personnel report no contact with LEP persons. However, the following analysis was completed to inform a LAP that considers the needs of LEP persons who could potentially be encountered by the agency as it administers its programs in the service area.

To facilitate this analysis, 2019–2023 America Community Survey data were analyzed for the agency's service area to inform the four-factor analysis. The data show that the number and proportion of LEP persons in the service area is low, with approximately 87 percent of the population estimated to speak only English. These results and the Wayne Public Transit four-factor analysis can be found in **Appendix C**.

2.7.1 Service Area Profile Conclusions

Based on the four-factor analysis, the number and proportion of non-English-speaking LEP persons in the Wayne Public Transit area is low, with no non-English language groups exceeding the Safe Harbor Threshold of 1,000 or more LEP persons or greater than 5 percent of the service area population. As a result, Wayne Public Transit has not identified a current need to develop additional language assistance measures. However, if staff encounter individuals with limited English proficiency, employees are trained to respond appropriately and provide meaningful access to services, as detailed in the LAP, using language assistance resources available through NDOT.

2.7.2 Language Assistance Plan

Wayne Public Transit has access to language assistance resources through NDOT, including document translation. Using these resources, Wayne Public Transit's Title VI Notice to the Public, Discrimination Complaint Form, and Discrimination Complaint Procedures Form have been translated into Spanish for public distribution and for posting on the agency's website. If Wayne Public Transit holds a public hearing, publicly distributed meeting documents, including meeting minutes, can be translated on request using these resources.

Wayne Public Transit also has access to verbal interpretation services through NDOT. These services can be used whenever in-person or over-the-phone interpretation is required to assist riders. The agency will also take reasonable steps to support LEP individuals who may choose to access its programs and services in the future.

Additionally, "I Speak" cards will be available at the agency's main office. These cards allow LEP individuals to quickly identify their spoken language when it cannot be easily determined by staff. This tool will help Wayne Public Transit identify language assistance needs as they arise and ensure appropriate support is provided.

2.7.3 Monitoring and Updating the Wayne Public Transit LAP

Wayne Public Transit understands that language needs will change as the service area population changes. Wayne Public Transit will revisit the LAP every 3 years and make appropriate changes. Updates may include the following:

- The number of documented LEP person contacts encountered since the last update

- Description of how the needs of LEP persons have been addressed
- Determination of the current LEP population in the agency service area
- Determination of whether the need for language assistance has changed
- Determination of whether local language assistance has been effective and sufficient at meeting needs
- Determination of whether the agency's available outreach resources are sufficient to supply necessary language assistance
- Determination of whether complaints have been received concerning the agency's failure to meet the needs of LEP persons

2.7.4 Employee Training

Wayne Public Transit's personnel are required to review the current Title VI Program document and sign a written statement declaring their understanding of their obligation to provide service regardless of race, color, or national origin.

Necessary personnel will be familiar with the agency's procedures for handling a potential Title VI complaint.

Diane Bertrand, the Senior Center Coordinator, has taken part in the Title VI planning and training sessions through NDOT.

Additional resources for employee training include a Title VI training course hosted by NDOT and ongoing Title VI assistance and oversight provided by the NDOT Civil Rights Office.

2.8 Planning and Advisory Bodies

Wayne Public Transit does not have a transit-related, non-elected planning board, advisory council, or other committee. In the event such a committee were established prior to Wayne Public Transit's next Title VI program submission, the demographic makeup of the planning board or committee would be summarized, as required.

2.9 Wayne Public Transit Equity Analysis to Determine Site or Location of Facilities

Wayne Public Transit will complete a Title VI equity analysis during the planning stage for construction projects using FTA funds with regard to where a project is located or sited and to compare the impact of siting alternatives. The purpose of the equity analysis will be to ensure that the determination of the site or location of facilities was made without denying anyone the benefits of the federally funded program or subjecting anyone to discrimination on the basis of race, color, or national origin. Copies of subsequent equity analyses will be included in NDOT's 2029 Title VI Program submission. Wayne Public Transit will complete an equity analysis for projects related to facilities, including but not limited to storage facilities, maintenance facilities, operations centers, etc. NDOT follows the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

As of the publication of this Title VI Program Plan, no new location or existing facility upgrade is programmed for the time period of this plan. If one is programmed after approval, it will be amended into this document as an appendix.

3 Requests for Additional Information

Wayne Public Transit will fully cooperate with any FTA investigation of discrimination complaints to the extent required by Title VI regulations of FTA Circular 4702.1B.

Appendix A
Wayne Public Transit Title VI Notice

Title VI Notice to the Public

Wayne Public Transit operates its programs and services without regard to race, color, or national origin in accordance with Title VI of the Civil Rights Act. Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI may file a complaint of discrimination by completing and submitting the agency's Title VI Discrimination Complaint Form. This form can be downloaded on the subrecipient's website at <https://www.cityofwayne.org/137/Handi-Van> or requested by contacting Diane Bertrand, Senior Center Coordinator, at the address provided below.

To request more information on the agency's Title VI obligations or to obtain a detailed description of the agency's Title VI discrimination complaint procedures, please visit the agency website or contact the agency using the information provided. A telephone interpreter can be provided to assist persons of limited English proficiency.

Questions about Title VI? Please contact:

¿Preguntas sobre el Título VI? Por favor comuníquese con:



Subrecipient Organization: Wayne Public Transit

Attn: Diane Bertrand, Senior Center Coordinator

Mailing Address: 410 North Pearl Street
City, State ZIP: Wayne, NE 68787



Phone: 402-375-1460



Email: dbertrand@cityofwayne.org



Website:
<https://www.cityofwayne.org/137/Handi-Van>

Notificación al Público sobre el Título VI

Wayne Public Transit opera sus programas y servicios sin tomar en cuenta raza, color, u origen nacionalidad de conformidad con el Título VI del Acta de Derechos Civiles. Cualquier persona que crea que ha sido agraviada por cualquier práctica discriminatoria ilegal bajo el Título VI puede presentar una queja de discriminación al completar y enviar el Formulario de Queja de Discriminación de Título VI de la agencia. Este formulario se puede descargar del sitio web del subreceptor en <https://www.cityofwayne.org/137/Handi-Van> o solicitarsc comunicándose con Diane Bertrand a la dirección proporcionada arriba.

Para solicitar mas información sobre las obligaciones de Título VI de la agencia o para obtener una descripción detallada del procedimiento de Quejas de Discriminación del Título VI, favor de visitar la pagina de la agencia o contactar la agencia a la dirección proporcionada arriba. Un interprete telefónico está disponible para asistir personas de dominio de Inglés limitado.



NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Appendix B

Wayne Public Transit Title VI Discrimination Complaint Form

Title VI Discrimination Complaint Form NEBRASKA

Please complete, sign, and return this form to the address listed at the bottom of the page.

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DEPARTMENT OF TRANSPORTATION

Complainant name									
Address				City		State		Zip code	
Phone				Email					

Person discriminated against, if different from complainant									
Address				City		State		Zip code	
Phone				Email					

Type of discrimination:	☐ Race/Color	☐ Age	☐ Sex	☐ National origin	☐ Disability	☐ Other
Date of incident						

Please provide the date and location of the alleged discriminatory actions, including both the earliest and most recent incidents.

Please provide a brief and clear account of the discriminatory incident, including details of what happened, who was involved and any differential treatment compared to others. You may also include supporting materials for your complaint. Please attach any additional written or supporting information that you believe is relevant to this complaint.

Please provide the names and contact information of persons, including witnesses or others, whom we may contact for additional information to investigate your complaint.

To process your complaint, please ensure it is signed and dated below.		MAIL 	Wayne Public Transit 410 North Pearl Street Wayne, NE 68787
Signature			
Date		EMAIL 	dbertrand@cityofwayne.org

OFFICE USE ONLY	
Received by	Date received

Título VI Formulario de queja por discriminación

NEBRASKA

Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Complete, firme y envíe este formulario a la dirección que aparece en la parte inferior de la página.

Nombre del denunciante			
Dirección		Ciudad	
Teléfono		Estado	
		Código postal	
		Correo electrónico	

Víctima de la discriminación, si es diferente del denunciante			
Dirección		Ciudad	
Teléfono		Estado	
		Código postal	
		Correo electrónico	

Tipo de discriminación:	☐ Raza/Color	☐ Edad	☐ Sexo	☐ Nación de origen	☐ Discapacidad	☐ Otra opción
Fecha del incidente						

Proporcione la fecha y el lugar de las supuestas acciones discriminatorias, incluidos tanto los incidentes más tempranos como los más recientes.

Proporcione un informe breve y claro del incidente discriminatorio, incluidos los detalles de lo que sucedió, quién estuvo involucrado y cualquier tratamiento diferencial en comparación con otros. También puede incluir materiales de respaldo para su queja. Adjunte cualquier información adicional por escrito o de apoyo que considere relevante para esta queja.

Proporcione los nombres y la información de contacto de las personas, incluidos los testigos u otras personas, con quienes podamos comunicarnos para obtener información adicional para investigar su queja.

Para procesar su queja, asegúrese de que esté firmada y fechada a continuación.	
Firma	
Fecha	

DIRECCIÓN
POSTAL

CORREO
ELECTRÓNICO



Wayne Public Transit
410 North Pearl Street
Wayne, NE 68787

dbertrand@cityofwayne.org

SOLO PARA USO DEL OFICINA	
Recibido por	Fecha de recepción

Appendix C
Wayne Public Transit
Four-Factor Analysis and Language Assistance Plan

Wayne Public Transit Four-Factor Analysis

Wayne Public Transit provides transportation to the general public in Wayne, Nebraska. Wayne Public Transit personnel report that contact with clients of limited English proficiency (LEP) is rare, with no recent reported contacts with LEP clients by the agency. However, the following analysis was completed to inform a Language Assistance Plan that considers the needs of LEP persons who could potentially be encountered by the agency as it administers its programs in the service area.

To facilitate this analysis, 2019–2023 American Community Survey data were analyzed for the agency's service area to inform the four-factor analysis. The data show that the number and proportion of LEP persons in the service area is low, with approximately 87 percent of the population estimated to speak only English.

Based on the four-factor analysis, the number and proportion of non-English-speaking LEP persons in the Wayne Public Transit area is low, with no non-English language groups exceeding the Safe Harbor Threshold of 1,000 or more LEP persons or greater than 5 percent of the service area population. Moreover, the agency personnel report no contact with LEP persons. As a result, Wayne Public Transit has not identified a current need to develop additional language assistance measures. However, if staff encounter individuals with limited English proficiency, employees are trained to respond appropriately and provide meaningful access to services, as detailed in the Language Assistance Plan, using language assistance resources available through NDOT.

Factor 1: The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient

Wayne Public Transit provides transportation service for the residents in Wayne, Nebraska. To estimate the number and proportion of individuals with LEP in the service area, data from the 2019–2023 American Community Survey were reviewed. For this analysis, "LEP" is defined as individuals who speak English less than "very well." LEP may also refer to individuals with limited ability to read, write, or understand English.

The following explains the Wayne Public Transit service area LEP profile:

- The total number of persons over the age of 5 in Wayne is 5,759.
- Approximately 87 percent of this total population speak English only.
- Spanish is the largest non-English language group in the Wayne Public Transit service area. This language group is estimated to be 176 LEP persons, or approximately 3.1 percent of the area's total population.
- Other language groups in the Wayne Public Transit service area contained a low number or proportion of LEP persons that did not surpass the Safe Harbor Threshold of 1,000 LEP persons or greater than 5 percent proportion of LEP persons in the service area.

Factor 1a: How LEP persons interact with the agency

Agency staff report that contact with LEP individuals is rare. It is estimated that such contact would most likely occur while scheduling or providing transportation.

Factor 1b: Literacy skills of LEP persons in their native language to determine whether the translation of written documents will be an effective practice

No complete data on native language literacy was available. If additional data becomes available, it will be incorporated into future analyses. Based on current resources and practices, the agency does not anticipate significant barriers to service due to literacy limitations.

Factor 1c: Whether LEP persons are underserved due to language barriers

Given the low number and proportion of LEP individuals in the service area and the limited contact reported by staff, the agency does not anticipate language to be a barrier to accessing services.

Factor 2: Frequency of contact with LEP persons

Wayne Public Transit personnel report that interaction with LEP individuals while administering programs and services is rare.

Factor 3: Nature and importance of the program, activity, or service

Wayne Public Transit operates a public transportation agency, which is available to all residents in the service area. The agency provides essential mobility services and access to critical destinations, including medical appointments, employment, education, shopping, and social activities. The agency considers its services to be highly important to the community.

Factor 4: Resources available and associated costs

Wayne Public Transit has access to Title VI LEP outreach resources through NDOT, including document translation assistance and verbal translation over the phone using the Nebraska Language Line, Title VI template documents (e.g., Title VI Notice to the Public, Title VI Complaint Form), and general Title VI assistance and oversight.

Language Assistance Plan

Wayne Public Transit has access to language assistance resources through NDOT, including document translation. Using these resources, Wayne Public Transit's Title VI Notice to the Public, Discrimination Complaint Form, and Discrimination Complaint Procedures Form have been translated into Spanish for public distribution and for posting on the agency's website. If Wayne Public Transit holds a public hearing, publicly distributed meeting documents, including meeting minutes, can be translated on request using these resources.

Wayne Public Transit also has access to verbal interpretation services through NDOT. These services can be used whenever in-person or over-the-phone interpretation is required to assist riders. The agency will also take reasonable steps to support LEP individuals who may choose to access its programs and services in the future.

Additionally, "I Speak" cards will be available at the agency's main office. These cards allow LEP individuals to quickly identify their spoken language when it cannot be easily determined by staff. This tool will help Wayne Public Transit identify language assistance needs as they arise and ensure appropriate support is provided.

Appendix D
Wayne Public Transit Title VI Complaint Investigation
Log

Title VI Complaint and Lawsuit Tracking Form

Title VI Complaints							
Complainant Name	Date of Incident	Date Filed	Summary of Complaint (include basis of complaint: race, color, or national origin)	Complaint resulted in investigation? (Y/N)	Status of complaint: active or closed?	Summary of Findings OR Reason Complaint was not investigated (N/A if active)	Notes

Title VI Lawsuits						
Name of Plaintiff	Date of Incident	Date Filed	Allegation(s)	Status: Active or Closed?	Result (N/A if active)	Notes

Submitted by:

Subrecipient Organization: Wayne Public Transit
Attn: Diane Bertrand, Senior Center Coordinator
Address: 410 North Pearl Street
City, State ZIP: Wayne, NE 68787
Phone: 402-375-1460
Email: dbertrand@cityofwayne.org



RESOLUTION NO. 2026-16

A RESOLUTION APPROVING THE “REQUEST FOR PROPOSALS” FOR THE OPERATION OF THE WAYNE RECYCLING & TRASH CENTER.

WHEREAS, City staff has prepared a Request for Proposal (RFP) document which outlines the scope of services, responsibilities and other criteria for selecting a qualified operator for the Wayne Recycling & Trash Center; and

WHEREAS, the City Council has reviewed said RFP and finds it to be in the best interest of the City of Wayne to solicit competitive proposals for the operation of the Wayne Recycling & Trash Center.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the “Request for Proposals” for the operation of the Wayne Recycling & Trash Center, as prepared by City Staff and filed in the office of the City Clerk, is hereby approved, and City staff are directed to solicit proposals for the operation of the Recycling & Trash Center.

PASSED AND APPROVED this 16th day of February, 2026.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

Request for Proposals (RFP): Operation of Wayne Recycling & Trash Center (RTC)

Date Issued: February 17, 2026

Proposals Due: March 27, 2026

Issued By: City of Wayne, NE

Project Location: 110 Windom Street, Wayne, NE

1. Purpose

The City of Wayne, Nebraska (“City”) is seeking proposals from qualified vendors to provide comprehensive management and operation services for the Wayne Recycling & Trash Center (“RTC”). The City intends to enter into a professional services agreement with a provider (hereinafter “Operator”) to manage waste disposal and recycling streams for the benefit of the community.

2. Contract Duration

The term of the agreement shall be no less than two (2) years and no more than five (5) years, effective from the date of execution.

3. Scope of Services & Operator Obligations

Proposals should address how the Operator will be responsible for the following items:

- A. Operational Management: Provide staffing and management for the RTC. The facility must be open to the public for a minimum of 20 hours per week, with additional availability by appointment.
- B. Regulatory Compliance: Operate under the City of Wayne’s Nebraska Department of Water, Energy, and Environmental (NDWEE) Solid Waste Permit, adhering to all state requirements and conditions.
- C. Waste & Recycling Collection: Supply clearly labeled containers (identifying whether for garbage or recycling) and collect garbage/recycling from all City buildings, parks, and facilities, as well as special community events (e.g., the Wayne Chicken Show) at no cost to the City. Accept garbage and recycling from Wayne County road litter and the Wayne County Fair at no cost to the County.
- D. Community Support: Provide continued access, containers, space, and assistance for the following recycling programs at no cost to the City or public:
 - 1. the local Boy Scout troop recycling program;
 - 2. the City’s glass and light string recycling programs; and
 - 3. other recycling programs added upon mutual agreement by the parties.
- E. Recycling Logistics: Provide containers for co-mingled recycling, single-stream recycling, and scrap metal at the RTC at no cost to the City or public. Materials outside of the City’s and Boy Scout’s programs must be transported and/or sold by the Operator. The Operator will collaborate with the City on public education materials and signage.
- F. Special Materials Handling:
 - 1. Tires: Accepted for a fee (determined by Operator to cover disposal).
 - 2. Waste Oil: Accepted at no charge (collected by Wayne County).

3. Appliances: Refrigeration units accepted for a fee; Operator must drain and certify units as Freon-free.

4. Financial & Administrative Requirements

A. Usage Fee: Operator shall pay the City for the use of the RTC. Specify the terms the Operator is offering, including, but not limited to, the contract duration, monthly fee, and expected City responsibilities regarding maintenance of grounds and building.

B. Operating Costs: Operator is responsible for all utility costs at the RTC and the Nebraska Department of Water, Energy, and Environment (NDWEE) Permit Fee (if applicable).

C. Insurance: Operator must provide proof of \$1,000,000 liability insurance, naming the City as an additional insured, and cover the cost of the City's insurance for the RTC.

D. Reporting: Monthly reports must be submitted to the City, including scale tickets for all waste/recycling streams (tonnage), a log of customer complaints/resolutions, and identification of disposal/processing destinations.

E. Fee Transparency: A schedule of public fees for garbage or special materials must be posted at the RTC and made available for the City to post on its website/social media.

5. City Responsibilities

Maintenance provided by the City will be negotiated in an agreement after reviewing Operators' proposals. The City will insure the property and hold the Operator harmless for claims arising specifically from the City's negligence. The Operator will reimburse the City for City's insurance costs.

6. Proposal Evaluation

Proposals received by the deadline will be reviewed in a timely manner to ensure the Wayne City Council can consider approving an agreement in April or May 2026. Proposals will be evaluated on meeting the scope outlined and the terms of the proposal (i.e., contract duration, monthly fee, and maintenance responsibilities of the grounds/facility).

7. Proposal Submission

Interested parties should submit a formal proposal detailing their experience, staffing plan, and ability to meet the requirements outlined above no later than Friday, March 27, 2026.

Direct inquiries and proposals to:

City of Wayne
Attn: Wes Blecke, City Administrator
513 Main Street
Wayne NE 68787
wblecke@cityofwayne.org
(402) 375-1733

The City of Wayne reserves the right to reject any or all proposals and to waive informalities in the proposal process.

RESOLUTION NO. 2026-17

A RESOLUTION APPROVING AMENDMENT NO. 2 TO TASK ORDER NO. 05 OF THE MASTER AGREEMENT WITH DGR ENGINEERING FOR THE PROJECT NAMED “PROPOSED GENERATION PLANT PROJECT.”

WHEREAS, the Wayne City Council, on March 1, 2016, appointed DGR Engineering as the special engineer on the City of Wayne Electric Distribution Projects; and

WHEREAS, DGR Engineering has prepared Amendment No. 2 to Task Order No. 05 of the Master Agreement for Professional Services for a project titled: “Proposed Generation Plant Project;” and

WHEREAS, it is necessary to amend said agreement to include additional fees (\$38,700) for said services described therein; and

WHEREAS, said additional engineering services brings the revised fee established by this amendment to \$80,553.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that Amendment No. 2 to Task Order No. 05 of the Master Agreement, which is attached hereto and incorporated herein by reference, by and between the City of Wayne and DGR Engineering is hereby approved for the project titled “Proposed Generation Plant Project.”

PASSED AND APPROVED this 16th day of February, 2026.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

**AMENDMENT 2
To Task Order No. 05
Master Agreement for Professional Services
DGR Engineering and City of Wayne, Nebraska**

Amendment Effective Date: February 12, 2026

Task Order No. 05 Dated: January 3, 2024

Task Order No. 05 Project Name: Proposed Generation Plant.

TASK ORDER PROJECT DESCRIPTION: The City of Wayne, Nebraska has previously expressed interest in adding generation to the proposed substation site on the northeast part of Wayne. Previous discussions included a potential partnership with Northeast Power to own and / or operate the generation assets, with upwards of 20 MW to 40 MW proposed.

Civil

Design Phase:

- Perform civil site design of the proposed generation plant
- Assemble the design plans that will include both the generation and substation grading plans.
- Prepare staking sheets for the site which includes delivery of the generation and substation grading and associated details
- Design the necessary culverts and /or storm for driveways
- Stormwater Pollution Prevention Plan (SWPPP)
- Develop Bidding documentation

Construction Administration Phase:

- Organize and attend a preconstruction conference
- Deliver the necessary electronic files to the Contractor during construction
- Answer Contractor questions
- Process progress payments

Construction Observation:

- Periodically provide site observation during construction. Anticipating four site visits.
- Provide observation reports on those site visits

DGR CONTACT PERSON: Paul Davis, Project Manager

CLIENT CONTACT PERSON: Wes Blecke, City Administrator
Clayton Dredge, Electric Distribution Superintendent

FEE ARRANGEMENT:

Component	Previous Fee	Fee Changes by this Amendment	Revised Fee Established by this Amendment	Fee Type
			#2	
Preliminary	\$41,853		\$ 41,853	Estimated Hourly
Civil Design Phase		\$23,700	\$23,700	Lump Sum
Civil Construction Administration Phase		\$7,500	\$7,500	Estimated Hourly
Site Observation		\$7,500	\$7,500	Estimated Hourly
	Total	\$41,853	\$ 38,700	\$ 80,553

The other portions of the contract, such as design, bidding, construction, etc., will be developed after the preliminary portion of the project is complete and further direction is offered by the City of Wayne.

All “Hourly” work will be billed at the then-current Hourly Fee Schedule. In addition to the amount relating to the personnel grade of the individuals doing the work, the only other expenses expected to be billed directly are travel-related costs (primarily mileage); and subsistence costs if overnight stays are required (food and lodging). The fee amounts shown above include an estimate of these expenses.

If additional assistance outside of the original scope of work is needed, Client will be consulted prior to Consultant performing such work, upon terms and conditions mutually agreed upon between the parties.

The current DGR Engineering 2026 Hourly Fee Schedule is attached.

SPECIAL TERMS AND CONDITIONS:

- Does not include design of major stormwater realignment through the site beyond grading pad measures intended to divert runoff around electrical equipment.
- The purchased property is located outside FEMA-regulated flood zones and environmentally protected wetlands, and therefore does not require special permitting for grading activities.
- No storm water detention or Water quality requirements

City of Wayne, NE

**DeWild Grant Reckert and Associates Company
d/b/a DGR Engineering**

By: _____

By: _____

Date: _____

Date: _____

DGR ENGINEERING

JANUARY 2026

HOURLY FEE SCHEDULE A

Personnel Grade	Engineer Hourly Rate	Technician Hourly Rate	Administrative Hourly Rate
01	\$135	\$81	\$80
02	\$143	\$86	\$85
03	\$152	\$91	\$90
04	\$162	\$96	\$95
05	\$172	\$101	\$101
06	\$183	\$107	\$108
07	\$194	\$113	\$116
08	\$206	\$120	\$124
09	\$218	\$127	\$133
10	\$230	\$135	\$143
11	\$243	\$143	\$153
12	\$258	\$151	\$165
13	\$271	\$161	\$181
14	\$281	\$172	\$213
15	\$288	\$183	\$266

Reimbursable Expenses:

1. Standard vehicle mileage at the IRS standard mileage rate in effect at the time.
2. Survey/staking/heavy duty trucks at IRS standard mileage rate plus \$0.25 per mile.
3. Other travel, subsistence, lodging at actual out-of-pocket cost.
4. GPS Survey Equipment (when used) at \$31.25 per hour.
5. ATV and UTV Equipment (when applicable) at \$12.50 per hour.

RESOLUTION NO. 2026-18

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS AND COST ESTIMATE FOR THE “NORTHEAST/CENTENNIAL ROAD SUBSTATION SITE GRADING PROJECT” AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS.

BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the plans, specifications and cost estimate of \$1,122,000 (with contingencies), as prepared by the City’s Engineer and filed in the office of the City Clerk for the said project, are hereby approved, and the City Clerk is directed to advertise for bids in the form of the notice prepared by the City’s Engineer.

PASSED AND APPROVED this 16th day of February, 2026.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

Generation & Substation Site Grading Work Wayne, Nebraska

DGR Project No. 412307

February 6, 2026

Site Work (Generation & Substation rough grading) - Opinion of Probable Cost

<u>Item No.</u>	<u>No. of Units</u>	<u>Item</u>	<u>Unit Cost</u>	<u>Total Item Cost</u>
1.	26,800 cu. yd.	Excavation and Embankment	\$6.00 /cu. yd. =	\$160,800.00
2.	13,725 cu. yd.	Building Footprint Mitigation Excavation	\$15.00 /cu. yd. =	\$205,875.00
3.	11,820 cu. yd.	Topsoil, on-site	\$7.50 /cu. yd. =	\$88,650.00
4.	9,550 sq. yd.	12" Subgrade Preparation	\$5.00 /sq. yd. =	\$47,750.00
5.	850 ln. ft.	4" Perforated Subdrain	\$30.00 /L.F. =	\$25,500.00
6.	4 ea.	Subdrain Outlet	\$1,000.00 /each =	\$4,000.00
7.	1,200 ln. ft.	Silt Fence/Wattles/Rock Log	\$25.00 /L.F. =	\$30,000.00
8.	3,415 tons	Gravel Base	\$65.00 /ton =	\$221,975.00
9.	10,200 sq. yd.	Erosion Control Blanket	\$5.00 /sq. yd.	\$51,000.00
10.	1 L.S.	SWPPP compliance	\$10,000.00 /L.S. =	\$10,000.00
11.	1 L.S.	Seeding, Fertilizing and Hydromulching	\$25,000.00 /L.S. =	\$25,000.00
12.	1 L.S.	Clearing and Grubbing	\$5,000.00 /L.S. =	\$5,000.00
13.	1 L.S.	Mobilization and Traffic Control	\$100,000.00 /L.S. =	\$100,000.00

* Does not include soil mitigation for contaminated soils

* Prices reflect estimated 2026 construction cost

Subtotal **\$975,550.00**

* Does not include stormwater detention or water quality

* Only includes Generation and Substation rough grading

Contingencies \$146,450.00

Construction Subtotal \$1,122,000.00

Project Manual

Northeast Substation Site Grading



**City of Wayne
Wayne, Nebraska**

February 2026

DGR Project No. 412307



Project Manual

Northeast Substation Site Grading

**City of Wayne
Wayne, Nebraska**

	I hereby certify that this plan, specification or report was prepared by me, or under my direct supervision, and that I am a duly registered Professional Engineer under the laws of the State of Nebraska. By _____ 2/ /2026 Bryan N. Wells, P.E. (Date) License Number <u>E-11130</u> Pages or sheets covered by this seal: <u>All bound pages.</u>

DGR Project No. 412307

DGR Engineering

1302 South Union Street
Rock Rapids, IA
(712) 472-2531
dgr@dgr.com

Project Manual
Northeast Substation Site Grading

City of Wayne
Wayne, Nebraska

Contact persons for this project are as follows:

**Owner's
Representative:**

City of Wayne
513 Main Street
Wayne, NE 68787
Telephone (402) 375-1733

Clayton Dredge, Electric Superintendent
cdredge@cityofwayne.org

Wes Blecke, City Administrator
wblecke@cityofwayne.org

Engineer:

Dan Van Schepen, P.E.
Project Manager
DGR Engineering
1302 South Union Street
Rock Rapids, Iowa 51246
Telephone (712) 472-2531
E-mail: dan.vanschepen@dgr.com

Project Manual

Northeast Substation Site Grading

**City of Wayne
Wayne, Nebraska**

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(This data is presented for informational purposes only and is not part of the Contract Documents.)

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CATEGORY I

Bidding Information and Contract Forms

- **Advertisement for Bids**
- **Instructions to Bidders**
- **Bid Bond**
- **Bid Form**
- **Performance Bond**
- **Payment Bond**
- **Agreement**

Miscellaneous Forms:

- **Notice of Award**
- **Notice to Proceed**
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- **Work Change Directive**
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- **Certificate of Contractor and Indemnity Agreement**
- **Engineer's Statement of Final Completion and Owner's Acceptance of Contract Construction**
- **Contractor's Receipt for Final Payment**

**CITY OF WAYNE
ADVERTISEMENT FOR BIDS**

Sealed bids will be received by the City Administrator of the City of Wayne, Nebraska located at 513 Main Street, Wayne, NE 68787, before **1:30 P.M. on the 5th day of March, 2026**, for Northeast Substation Site Grading, at which time the bids shall be publicly opened and read aloud.

The general nature of the work on which proposals will be received consists of site grading for the Substation site. The Contractor will be responsible for supplying all labor, materials and equipment for grading operations and for installation of fill, gravel surfacing, silt fences, etc. to complete the project.

The above work shall be in accordance with the specifications and proposed form of contract now on file in the office of the City of Wayne, Nebraska, by this reference made a part hereof, as though fully set out and incorporated herein.

All bids shall be made on proposal forms furnished by the Engineer and shall be accompanied by bid security in the form of a certified check or bid bond, made payable to the City of Wayne, Nebraska, in the amount of five percent (5%) of the bid, which security becomes the property of the City of Wayne in the event the successful bidder fails to enter into a contract and post satisfactory Performance and Payment Bonds.

Complete digital project bidding documents are available at www.questcdn.com. You may download the digital plan documents for \$22 by inputting **Quest project #**_____ on the website's Project Search page. Please contact QuestCDN.com at 952-233-1632 or info@questcdn.com for assistance in free membership registration, downloading, and working with this digital project information. An optional paper set of the proposal forms and specifications for individual use may be obtained from the office of the Engineer, DGR Engineering, 1302 South Union, P.O. Box 511, Rock Rapids, Iowa 51246, telephone 712-472-2531, Fax 712-472-2710, e-mail: dgr@dgr.com, upon payment of \$150, none of which is refundable.

Payment to the Contractor will be made on the basis of ninety-five percent (95%) upon certification of work completed; five percent (5%) within thirty-one (31) days after final completion and acceptance. Substantial completion of the project shall be no later than **July 15, 2026**. See the specifications for more details on construction timing requirements.

The City of Wayne reserves the right to defer acceptance of any proposal for a period not to exceed thirty (30) days after the date proposals are received and no proposal may be withdrawn during this period. The City of Wayne also reserves the right to reject any or all bids and enter into such contract as it shall deem to be in the best interest of the City of Wayne, Nebraska.

CITY OF WAYNE, NEBRASKA

By /s/ Betty McGuire
City Clerk

INSTRUCTIONS TO BIDDERS

ARTICLE 1 - DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. *Issuing Office* - The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
 - B. *Successful Bidder* - The responsible Bidder submitting a responsive Bid to whom OWNER (on the basis of OWNER's evaluations as hereinafter provided) makes an award.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

- 2.01 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement for Bids or Notice of Public Hearing and Letting may be obtained from the Issuing Office.
- 2.02 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.03 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license or grant for any other use.

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

- 3.01 To demonstrate Bidder's qualifications to perform the Work, prior to award, within five days of Owner's request, Bidder shall submit written evidence such as financial data, previous experience, present commitments, statement of compliance with any statutory requirements, and such other data as may be deemed appropriate by OWNER for making a complete evaluation.
- 3.02 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.03 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.
- 3.04 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.

ARTICLE 4 - SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE

4.01 *Site and Other Areas*

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

4.02 *Existing Site Conditions*

- A. Subsurface and Physical Conditions; Hazardous Environmental Conditions
 - 1. The Supplementary Conditions identify:
 - a. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site.
 - b. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
 - c. reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
 - d. Technical Data contained in such reports and drawings.
 - 2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
 - 3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.
- B. Underground Facilities: Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site are set forth in the Contract Documents and are based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities,

including Owner, or others. Information or data regarding Underground Facilities may be missing or incomplete. Location and avoidance of underground facilities is a part of the Work as required by the Supplementary Conditions.

- C. Adequacy of Data: Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions, and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated subsurface or physical conditions appear in Paragraphs 5.03, 5.04, and 5.05 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work, appear in Paragraph 5.06 of the General Conditions.

4.03 *Site Visit and Testing by Bidders*

On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.

- 4.04 Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

ARTICLE 5 - BIDDER'S REPRESENTATIONS

- 5.01 It is the responsibility of each Bidder before submitting a Bid to:

- A. examine and carefully study the Bidding Documents, and any data and reference items identified in the Bidding Documents;
- B. visit the Site, conduct a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfy itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. become familiar with and satisfy itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work;
- D. carefully study all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing

surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings;

- E. consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs;
- F. agree, based on the information and observations referred to in the preceding paragraph, that at the time of submitting its Bid no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
- G. become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;
- H. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder;
- I. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work; and
- J. agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 6 - NOT USED

ARTICLE 7 - INTERPRETATIONS AND ADDENDA

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than seven days prior to the date for opening of Bids may not be answered. Only questions

answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents.

ARTICLE 8 - BID SECURITY

8.01 Each Bid must be accompanied by Bid security made payable to Owner in an amount of five percent (5%) of the Bidder's maximum Bid price if in the form of a certified or bank check or a Bid Bond issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions.

8.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be Owner's exclusive remedy if Bidder defaults. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven days after the Effective Date of the Agreement the expiration of the Bid time for acceptance as specified on the Bid Form, whereupon Bid security furnished by such Bidders will be released on request.

8.03 Bid security of other Bidders whom Owner believes do not have a reasonable chance of receiving the award will be released on request within seven days after the Bid opening.

ARTICLE 9 - CONTRACT TIMES

9.01 The number of days within which, or the dates by which, the Work is to be substantially completed and ready for final payment are set forth in the Agreement.

ARTICLE 10 - LIQUIDATED DAMAGES

10.01 Provisions for liquidated damages, if any, are set forth in the Agreement.

ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS

11.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, and those "or-equal" or substitute or materials and equipment subsequently approved by Engineer prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by Engineer as an "or-equal" or substitute unless written request for approval has been submitted by Bidder and has been received by Engineer at least 15 days prior to the date for receipt of Bids. Each such request shall comply with the requirements of Paragraphs 7.04 and 7.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any such proposed item, such approval will be set forth

in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS AND OTHERS

- 12.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by Owner. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, without an increase in the Bid.
- 12.02 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 7.06 of the General Conditions.
- 12.03 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.

ARTICLE 13 - PREPARATION OF BID

- 13.01 The Bid Form is included with the Bidding Documents.
- A. All blanks on the Bid Form shall be completed in ink and the Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.
 - B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words "No Bid" or "Not Applicable."
 - C. Where the Bid Form includes more than one item, the Bidder may attach a substitute Proposal Form printed by a computer in lieu of completing the printed Proposal Form. If a substitute Proposal Form is used, it shall be attached to the back side of the printed Proposal Form. Such computer printed substitute Proposal Form shall include the following at the top of each page:

1. Project Title
2. Letting Date
3. Bidder's Name

- 13.02 The substitute computer printed Proposal Form shall have column headings that include the Item Number, Number of Units, Item Description, Unit Bid Price, Amount Bid for each item, Total Gross Sum Bid below the last bid item and bidder's name, signature in ink and title at the end of the Proposal Form. The signature on the substitute computer printed Proposal Form shall be the same as that on the bound Bid Form. The total gross sum bid shall also be written in ink in the space provided in the bound Bid Form. In case of a discrepancy between the item number, item description, and/or quantity shown in the bound Bid Form and those shown in the substitute computer printed Proposal Form, the bid item description and/or quantity shown in the bound Bid Form shall govern. The unit bid price shown on the substitute computer printed Proposal Form shall govern whether or not the amount bid shown is correct. The substitute Proposal Form page size and size of printed characters shall be approximately the same as the bound Bid Form. Solid lines for separating may be arranged either vertically or horizontally on the substitute Proposal Form. Pages must be numbered by page number of the total pages (Page 1 of 4). Item numbers must follow the Item numbers on the Bid Form. Any abnormalities which are not waived by the Owner as a technicality will result in rejection of the bid.
- 13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. If required by State where work is to be performed, the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown.
- 13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown.
- 13.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.
- 13.06 A Bid by an individual shall show the Bidder's name and official address.
- 13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.
- 13.08 All names shall be typed or printed in ink below the signatures.
- 13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 13.10 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.

- 13.11 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the Contract. Bidder's state contractor license number, if any, for the state of the Project, shall also be shown on the Bid Form.

ARTICLE 14 - BASIS OF BID; COMPARISON OF BIDS

The Bid shall be furnished on the basis (lump sum or unit price) as indicated on the Bid Form.

14.01 *Lump Sum*

- A. Bidders shall submit a Bid on a lump sum basis for the base Bid and include a separate price for each alternate described in the Bidding Documents as provided for in the Bid Form. The price for each alternate will be the amount added to or deleted from the base Bid if Owner selects the alternate.

14.02 *Unit Price*

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid schedule.
- B. The total of all estimated prices will be the sum of the products of the estimated quantity of each item and the corresponding unit price. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

ARTICLE 15 - SUBMITTAL OF BID

- 15.01 With each copy of the Bidding Documents, a Bidder is furnished with one separate unbound copy each of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with all attachments listed in Article 7 of the Bid.
- 15.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement or Invitation to Bid and shall be enclosed in a plainly marked package with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." Whether using mail, personal delivery, or some other delivery system, the Bidder is totally responsible for the mail or other delivery system delivering the Bid at the place and prior to that time indicated in the Advertisement for Bid. Note that the location for the Bid

opening may be a rural location not reliably covered by the "delivery time guarantee" of various delivery services. A mailed Bid shall be addressed to the Owner at the address specified by the Bidding Notice.

15.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

15.04 Bidders to supply a hard copy bid may submit bids in the following manner:

- A. Two (2) copies of each Bid Form and all supporting documentation shall be provided. Bids shall be placed in an opaque envelope and the envelope sealed and marked "Bid Enclosed – Northeast Substation Site Grading" to indicate its contents. If forwarded by mail, the envelope shall be mailed to the following address:

Betty McGuire
City of Wayne, Nebraska
513 Main Street
Wayne, NE 68787

ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID

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

16.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 16.01 and submit a new Bid prior to the date and time for the opening of Bids.

16.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work. This provision to withdraw a Bid without forfeiting the Bid Security does not apply to Bidder's errors in judgment in preparing the Bid

ARTICLE 17 - OPENING OF BIDS

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

ARTICLE 18 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

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

ARTICLE 19 - EVALUATION OF BIDS AND AWARD OF CONTRACT

- 19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. Owner may also reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.
- 19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.
- 19.03 In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 19.04 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.
- 19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work in accordance with the Contract Documents.

If the Contract is to be awarded, Owner will award the Contract to the responsible Bidder whose Bid is in the best interests of the Project.

ARTICLE 20 - BONDS AND INSURANCE

- 20.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the Agreement (executed by Successful Bidder) to Owner, it shall be accompanied by required bonds and insurance documentation.

ARTICLE 21 - SIGNING OF AGREEMENT

- 21.01 When Owner issues a Notice of Award to the Successful Bidder, it shall be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder shall execute and deliver the required number of counterparts of the Agreement (and any bonds and insurance documentation required to be delivered by the Contract Documents) to Owner. Within ten days thereafter, Owner shall deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

ARTICLE 22 - SALES AND USE TAXES

- 22.01 The unit prices for construction units in this Proposal shall be deemed to include provisions for the payment of all moneys which will be payable by the Bidder or the Owner in connection with the construction of the project on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies, labor, and equipment to be incorporated in the project as part of such construction units. The Bidder shall furnish to the appropriate taxing authorities, all required information and reports pertaining to materials and services used in the construction of the project.

ARTICLE 23 - RETAINAGE

- 23.01 Provisions concerning Contractor's rights to deposit securities in lieu of retainage are set forth in the Agreement.

ARTICLE 24 - NOT USED

ARTICLE 25 - NOT USED

ARTICLE 26 - NOT USED

* * * END OF SECTION * * *

BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

OWNER (*Name and Address*):

BID

Bid Due Date:

Description (*Project Name— Include Location*):

BOND

Bond Number:

Date:

Penal sum

\$

(Words)

(Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

SURETY

(Seal)

(Seal)

Bidder's Name and Corporate Seal

Surety's Name and Corporate Seal

By:

Signature

By:

Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest:

Signature

Attest:

Signature

Title

Title

Note: Addresses are to be used for giving any required notice.

Provide execution by any additional parties, such as joint venturers, if necessary.

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

BID FORM

ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

Owner Name: City of Wayne
Wayne, Nebraska

Owner Address: City of Wayne, Nebraska
513 Main Street
Wayne, NE 68787

1.02 This Bid is submitted by:

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

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 30 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

Addendum No.

Addendum Date

- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied, if any are available, all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.
- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER’S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
 - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

BID FORM

Northeast Substation Site Grading
City of Wayne
Wayne, Nebraska

Unit	Description	Unit Price		Extended Price
		Est # of Units	Labor & Materials	
M1	Excavation and Embankment (cy)	26,800		
M2	Building Footprint Mitigation Excavation (cy)	13,725		
M3	On Site Topsoil (cy)	11,820		
M4	12" Subgrade Preparation (sy)	9,550		
M5	15" RCP Storm Sewer (lf)	345		
M6	15" RCP Apron (ea)	7		
M7	4" Perforated Subdrain (lf)	850		
M8	6" CMP Subdrain Outlet (ea)	4		
M9	Silt Fence/Wattles/Rock log (lf)	1,200		
M10	Gravel Surfacing Course (ton)	3,415		
M11	Engineering Fabric (sy)	520		
M12	Connect to Existing Storm Sewer (ea)	1		
M13	Stabilized Construction Entrance (lump sum)	1		
M14	Erosion Control Blanket (sy)	10,200		
M15	Inlet Protection (ea)	4		
M16	Seeding, Fertilizing & Hydromulching (lump sum)	1		
U1	Mobilization (as req'd.)	1		

TOTAL: _____

ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security in the form of _____;
 - B. List of proposed subcontractors
 - C. List of proposed suppliers
 - D. List of project references

ARTICLE 8 – DEFINED TERMS

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

ARTICLE 9 – BID SUBMITTAL

BIDDER: *[Indicate correct name of bidding entity]*

By: _____

[Signature] _____

[Printed name] _____

(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

[Signature] _____

[Printed name] _____

Title: _____

Submittal Date: _____

Address for giving notices:

Telephone Number: _____

Fax Number: _____

Contact Name and e-mail address: _____

Bidder's License No.: _____

(where applicable)

PERFORMANCE BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

(seal)
Contractor's Name and Corporate Seal

(seal)
Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:
 - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
 - 5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
 - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
 - 5.4.1. After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - 5.4.2. Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
 - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
14. Definitions
 - 14.1. Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 14.2. Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
 - 14.3. Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
 - 14.4. Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 14.5. Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.
15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR *(name and address)*:

SURETY *(name and address of principal place of business)*:

OWNER *(name and address)*:

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

(seal)

(seal)

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____

Signature

By: _____

Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____

Signature

Attest: _____

Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1. Claimants who do not have a direct contract with the Contractor,
 - 5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2. Pay or arrange for payment of any undisputed amounts.
 - 7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. **Definitions**
 - 16.1. **Claim:** A written statement by the Claimant including at a minimum:
 1. The name of the Claimant;
 2. The name of the person for whom the labor was done, or materials or equipment furnished;
 3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 4. A brief description of the labor, materials, or equipment furnished;
 5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 7. The total amount of previous payments received by the Claimant; and
 8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
 - 16.2. **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
 - 16.3. **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
 - 16.4. **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 16.5. **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
18. Modifications to this Bond are as follows:

AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between **City of Wayne, Wayne, Nebraska** (“Owner”) and
_____ (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

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

Site Grading work for the Northeast Substation Site Grading.

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

Northeast Substation Site Grading construction and associated work.

ARTICLE 3 – ENGINEER

- 3.01 The Project has been designed by DGR Engineering.
- 3.02 The Owner has retained DGR Engineering (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

- 4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

- 4.02 *Contract Times: Dates*

- A. The Work will be substantially completed on or before **July 15, 2026**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **August 15, 2026**.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay Owner **\$500** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$500** for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.
 - B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in the Contractor's Bid. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 10.06 of the General Conditions. Unit prices have been computed as provided in Paragraph 13.03 of the General Conditions.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

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

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 1st day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
- a. 95 percent of Work completed (with the balance being retainage); and
- b. 0 percent (with the balance being retainage) of cost of materials and equipment not incorporated in the Work (but delivered, suitably stored, and accompanied by documentation satisfactory to Owner.
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

ARTICLE 7 – INTEREST

7.01 All amounts not paid when due shall bear interest at the rate of 7 percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

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

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings. If no such reports have been made available to Contractor, Contractor agrees that none are required from Owner.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
1. This Agreement (pages A-1 to **A-8**, inclusive).
 2. Performance bond (pages 1 to 2, inclusive).
 3. Payment bond (pages 1 to 2, inclusive).
 4. General Conditions (pages 1 to 65, inclusive).
 5. Supplementary Conditions (pages SC-1 to **SC-6**, inclusive).
 6. Specifications as listed in the table of contents of the Project Manual.
 7. Drawings (not attached but incorporated by reference) consisting of **4** sheets with each sheet bearing the following general title: **Northeast Substation Site Grading, City of Wayne, Wayne, Nebraska.**
 8. Addenda (numbers ____ to ____, inclusive).
 9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages **BF-1** to **BF-6**, inclusive).
 10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

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

10.03 *Successors and Assigns*

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

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 Multiple Parts; Copies Same as Originals; Electronic and Scanned Signatures Permitted

- A. This Agreement may be executed in multiple parts and in duplicates. Any duplicates of this Agreement shall each be given full effect.
- B. Any photocopies, electronic copies, or scanned copies of this Agreement shall be given full force and effect as the original(s).
- C. Given the distance between the parties and the time-sensitive nature of this Agreement, the parties stipulate that each party and/or their individual representatives may execute this Agreement using an electronic or scanned signature. Such electronic or scanned signatures shall be given full effect by the parties.

10.07 Other Provisions

- A. None.

ARTICLE 11 – CONTRACTOR AS AGENT

- 11.01 This Agreement will establish the Agency relationship between the OWNER and the CONTRACTOR, for purposes of purchase of capital equipment by the CONTRACTOR on behalf of the OWNER.
- 11.02 This Agreement binds the OWNER for payment of equipment purchased by the CONTRACTOR on behalf of the OWNER.
- 11.03 By this Agreement, OWNER appoints and CONTRACTOR agrees to become the Agent for the OWNER with respect to equipment and material purchases, as described in these Contract Documents.

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

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

OWNER:

CONTRACTOR:

City of Wayne _____

Sign: _____

Sign: _____

Print: _____

Print: _____

Title: _____

Title: _____

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

Attest: _____

Attest: _____

Print: _____

Print: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

513 Main Street _____

Wayne, NE 68787 _____

License No.: _____
(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

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MISCELLANEOUS FORMS

NOTICE OF AWARD

Date of Issuance: _____
Owner: _____ Owner's Contract No.: _____
Engineer: **DGR Engineering** Engineer's Project No.: _____
Project: _____ Contract Name: _____
Bidder: _____
Bidder's Address: _____

TO BIDDER:

You are notified that Owner has accepted your Bid dated _____, 20__ for the above Contract, and that you are the Successful Bidder and are awarded a Contract for: **Total Work**.

The Contract Price of the awarded Contract is: \$_____ [Contract is subject to unit prices]

[1] unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

☒ Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver with the executed Agreement(s) the Contract security **Performance and Payment Bonds** and insurance documentation as specified in the Instructions to Bidders (Article 20), General Conditions (Articles 2 and 6) and the Supplementary Conditions.
2. Other conditions precedent (if any): **Insurance Certificates – Including additional insureds as specified in the Supplementary Conditions**

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: _____

Authorized Signature
Sign: _____
Print: _____
Title: _____

Copy: **DGR Engineering**

NOTICE TO PROCEED

Owner: _____ Owner's Contract No.: _____
Contractor: _____ Contractor's Project No.: _____
Engineer: **DGR Engineering** Engineer's Project No.: _____
Project: _____ Effective Date of Contract: _____
Contract Name: _____

TO CONTRACTOR:

Contractor shall start performing its obligations under the Contract Documents. No Work shall be done at the Site prior to such date. In accordance with the Agreement, the date of Substantial Completion is _____, and the date of readiness for final payment is _____.

Before starting any Work at the Site, Contractor must comply with the following:

1. **Attend Preconstruction Meeting**
2. **Provide Shop Drawings for Engineer Review**

Owner: _____

Authorized Signature: _____

Sign: _____

Print: _____

Title: _____

Date Issued: _____

Copy: **DGR Engineering**

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: _____	Owner's Contract No.: _____
Contractor: _____	Contractor's Project No.: _____
Engineer: <u>DGR Engineering</u>	Engineer's Project No.: _____
Project: _____	

This [preliminary] [final] Certificate of Substantial Completion applies to:

☐ All Work ☐ The following specified portions of the Work:

Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows: *[Note: Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.]*

Amendments to Owner's Responsibilities: ☐ None
☐ As follows:

Amendments to Contractor's Responsibilities: ☐ None
☐ As follows:

The following documents are attached to and made a part of this Certificate: *[punch list; others]*

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract.

EXECUTED BY ENGINEER:	RECEIVED:	RECEIVED:
By: _____ Engineer (Authorized Signature)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Print: _____	Print: _____	Print: _____
Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____

Work Change Directive

No. _____

Date of Issuance: _____ Effective Date: _____

Project: _____

Owner: _____ Owner's Contract No.: _____

Engineer: DGR Engineering Engineer's Project No.: _____

Contractor: _____ Contractor's Project No.: _____

Contractor is directed to proceed promptly with the following change(s):

Description: _____

Attachments (list documents supporting change): _____

Purpose for Work Change Directive:

Directive to proceed promptly with the Work described herein, prior to agreeing to changes on Contract Price and Contract Time, is issued due to (check one or both of the following):

- ☐ Non-agreement on pricing of proposed change.
☐ Necessity to proceed for schedule or other project reasons.

Estimated Change in Contract Price and Contract Times (non-binding, preliminary):

Contract Price: \$ _____ [increase] [decrease].

Contract Time: _____ days [increase] [decrease].

Basis of estimated change in Contract Price:

☐ Lump Sum ☐ Unit Price ☐ Cost of Work ☐ Other

RECOMMENDED:

By: _____
Engineer (Authorized Signature)

Print: _____
Title: _____
Date: _____

AUTHORIZED BY:

By: _____
Owner (Authorized Signature)

Print: _____
Title: _____
Date: _____

RECEIVED:

By: _____
Contractor (Authorized Signature)

Print: _____
Title: _____
Date: _____

Approved by Funding Agency (if applicable):

By: _____
Print: _____

Date: _____
Title: _____

Date of Issuance: _____ Effective Date: _____

Project: _____
Owner: _____ Owner's Contract No.: _____
Engineer: DGR Engineering Date of Contract: _____
Contractor: _____ Engineer's Project No.: _____

The Contract Documents are modified as follows upon execution of this Change Order:

Description: _____

Attachments (list documents supporting change): _____

CHANGE IN CONTRACT PRICE:

Original Contract Price:

\$ _____

[Increase] [Decrease] from Previously Approved
Change Orders No. _____ to No. _____:

\$ _____

Contract Price Prior to this Change Order:

\$ _____

[Increase] [Decrease] of this Change Order:

\$ _____

Contract Price Incorporating this Change Order:

\$ _____

CHANGE IN CONTRACT TIMES:

Original Contract Times: ☐ Working Days ☐ Calendar Days

Substantial Completion (days or date): _____

Ready for Final Payment (days or date): _____

[Increase] [Decrease] from Previously Approved Change Orders
No. _____ to No. _____:

Substantial Completion (days or date): _____

Ready for Final Payment (days or date): _____

Contract Times Prior to this Change Order:

Substantial Completion (days or date): _____

Ready for Final Payment (days or date): _____

[Increase] [Decrease] of this Change Order:

Substantial Completion (days or date): _____

Ready for Final Payment (days or date): _____

Contract Times with all Approved Change Orders:

Substantial Completion (days or date): _____

Ready for Final Payment (days or date): _____

RECOMMENDED:

By: _____
Engineer (Authorized Signature)

Print: _____
Title: _____
Date: _____

ACCEPTED:

By: _____
Owner (Authorized Signature)

Print: _____
Title: _____
Date: _____

ACCEPTED:

By: _____
Contractor (Authorized Signature)

Print: _____
Title: _____
Date: _____

Approved by Funding Agency (if applicable):

By: _____
Print: _____

Date: _____
Title: _____

Date of Issuance: _____ Effective Date: _____

Project: _____

Owner: _____ Owner's Contract No.: _____

Engineer: DGR Engineering _____ Engineer's Project No.: _____

Contractor: _____ Contractor's Project No.: _____

Contractor is hereby directed to promptly execute this Field Order, issued in accordance with General Conditions Paragraph 11.01, for minor changes in the Work without changes in Contract Price or Contract Times. If Contractor considers that a change in Contract Price or Contract Times is required, submit a Change Proposal before proceeding with this Work.

Reference: _____
Specification(s) Drawing(s) / Detail(s)

Description: _____

Attachments (list documents supporting change): _____

ISSUED: RECEIVED:
By: _____ By: _____
Engineer (Authorized Signature) Contractor (Authorized Signature)

Print: _____ Print: _____

Title: _____ Title: _____

Date: _____ Date: _____

Copy to: Owner

WAIVER AND RELEASE OF LIEN

WHEREAS, the undersigned, _____
NAME OF MANUFACTURER, MATERIALMAN OR SUBCONTRACTOR

has furnished to _____ the following:

_____ for use in the construction of a
KIND OF MATERIAL AND SERVICES FURNISHED

project belonging to _____, and designated as, _____.

NOW, THEREFORE, the undersigned, _____
NAME OF MANUFACTURER, MATERIALMAN OR SUBCONTRACTOR

for and in consideration of \$ _____, and other good and valuable consideration, the receipt whereof is hereby acknowledged, do(es) hereby waive and release any and all liens, or right to or claim of lien, on the above described project and premises, under any law, common or statutory, on account of labor or materials, or both, heretofore or hereafter furnished by the undersigned to or for the account of said _____ for said project.

Given under my (our) hand(s) and seal(s) this _____ day of _____, 20_____.

NAME OF MANUFACTURER, MATERIALMAN OR SUBCONTRACTOR

Sign: _____
PRESIDENT, VICE PRESIDENT, PARTNER OR OWNER, OR, IF SIGNED BY
OTHER THAN ONE OF FOREGOING, ACCOMPANIED BY POWER OF
ATTORNEY SIGNED BY ONE OF THE FOREGOING IN FAVOR OF THE
SIGNER (USE DESIGNATION APPLICABLE)

Print: _____

CERTIFICATE OF CONTRACTOR AND INDEMNITY AGREEMENT

_____, certifies that he/she is the * _____
REPRESENTATIVE NAME TITLE OR DESIGNATION
of _____, the Contractor, in a contract No. _____ dated
_____, 20 __, entered into between the Contractor and _____
the Owner, for the construction of _____: and that he/she is authorized to and
does make this Certificate and Indemnity Agreement on behalf of the Contractor in order to induce the
Owner to make payment to the Contractor, in accordance with the provisions of the Contract.
Undersigned further certifies that:

1. The Project has been completed in accordance with provisions of the Construction Contract; provided however, that acceptance by the Owner shall not be deemed to relieve the Contractor of his obligations contained in the Construction Contract with respect to defective workmanship and materials. The Contractor shall provide a warranty of materials and workmanship as outlined and provided in the Contract Documents.
2. All persons who have finished labor in connection with the Project have been paid in full at hourly wage rates not less than those, if any, set forth in the Construction Contract; that all manufacturers, materialmen and subcontractors which furnished any materials or services, or both, for the Project have been paid in full; that no lien has been filed against the Project and no person has any right to claim any lien against the Project.
3. That the Contractor has delivered to the Owner duplicate releases of liens executed by all manufacturers, materialmen and subcontractors that furnished materials or services for the project as follows:

Name	Kind of Material and Services
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If the Owner pays the Contractor the total amount due under the Contract, which the Contractor agrees is \$ _____, including \$ _____ for ** state sales and use taxes paid by the Contractor, the Contractor will indemnify and hold harmless and does hereby undertake and agree to indemnify and hold harmless the Owner, including the defense of any suit, from any claim, demand or lien arising out of the acts of the Contractor in the performance of the Contract for which the Contractor is liable and which may have been or may be filed against the Owner.

SIGNATURE

PRINT

- * President, Vice President, Partner or Owner, or, if undersigned is other than one of the foregoing, Power of Attorney signed by one of the foregoing in favor of the undersigned should be attached. Indicate applicable designation.
- ** In addition, Contractor shall submit a detailed statement of sales and use taxes paid in accordance with requirements of statute in state having jurisdiction.

**ENGINEER'S STATEMENT OF FINAL COMPLETION
AND
OWNER'S ACCEPTANCE OF CONTRACT CONSTRUCTION**

TO: _____

PROJECT DESIGNATION

I, the undersigned Engineer of the above designated project, do hereby state that:

1. The construction provided for pursuant to Construction Contract No. _____, dated _____, 20__, including all approved amendments and change orders, (hereinafter called the "Project") between _____ ("Owner") and _____ ("Contractor") has been completed as of _____, 20__ and to the best of my knowledge, information and belief, based on observations made during the period of construction, is in substantial compliance with the provisions of the Construction Contract, including all plans, specifications and drawings, and modifications thereof.

To the best of my knowledge, information, and belief,

2. Defects in workmanship and materials reported during the period of construction of the Project have been corrected.
3. The total cost of the project as completed is _____ dollars (\$_____).
4. The Final Inventory attached hereto and made a part hereof is a complete and accurate summary of the work performed in accordance with the Construction Contract.

Accepted:

_____ Owner	DGR Engineering _____ Engineer
Sign _____	Sign _____
Print _____	Print _____
Title _____	Title _____
Date _____	Date _____

CONTRACTOR'S RECEIPT FOR FINAL PAYMENT

Name of Project: _____

Previous Contract Payment \$ _____

Final Contract Payment \$ _____

Total Contract Payment \$ _____

The undersigned acknowledges receipt of the final contract payment shown above as satisfaction in full or all claims of the undersigned under the Construction Contract between the undersigned and _____ dated _____, 20__ as amended, and as complete performance by the Owner of all obligations to be performed by him pursuant thereto. The total amount received under this contract is shown above.

Name of Contractor: _____

Sign: _____

Print: _____

Date: _____

CATEGORY II

Contract Conditions

- **General Conditions**
- **Supplementary Conditions**

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GENERAL CONDITIONS

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

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

regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment

into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 *Terminology*

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner’s Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or

computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*
 - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict,

error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

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

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If

Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

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

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.03 *Reference Points*

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

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

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

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 2. abnormal weather conditions;
 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

- A. *Limitation on Use of Site and Other Areas:*
 - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable,

brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

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

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 - 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

- c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after

becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
 - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.
 - 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
 2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous

Environmental Condition, and impose a set-off against payments to account for the associated costs.

- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.H shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or

any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).

3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
 2. claims for damages insured by reasonably available personal injury liability coverage.
 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 3. Broad form property damage coverage.
 4. Severability of interest.
 5. Underground, explosion, and collapse coverage.
 6. Personal injury coverage.
 7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
 8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability:* Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability:* Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.

- F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
- I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
1. include at least the specific coverages provided in this Article.
 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 - 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
 - 2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
 - 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.

4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
 5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 12. include performance/hot testing and start-up.
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance:* If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

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

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 "Or Equals"

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be

evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
 - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
 - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

- 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.

- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.

- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

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

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

7.09 *Taxes*

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

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

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

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
 - C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
 - D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
 - E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
 - F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
 - G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

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

7.15 *Emergencies*

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

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements:*

1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples:*

- a. Contractor shall submit the number of Samples required in the Specifications.

- b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
 1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
 3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
 4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
 5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
 6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
 7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

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

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.

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

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop

Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

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

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

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

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

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

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

9.06 *Insurance*

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

9.07 *Change Orders*

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

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

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

9.12 *Safety Programs*

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

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means,

methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

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

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

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
 - 1. *Change Orders:*
 - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
 - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the

completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

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

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

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

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 Execution of Change Orders

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

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

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
 - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
 - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal

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

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

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

13.01 Cost of the Work

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing

Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes

other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

- B. *Cash Allowances*: Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

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

14.01 *Access to Work*

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

14.02 *Tests, Inspections, and Approvals*

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

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

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to

cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

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

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

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

- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

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

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include

but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

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

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

15.01 Progress Payments

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications:*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

- a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

- e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due:*

- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner:*

- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;
 - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - l. there are other items entitling Owner to a set off against the amount recommended.
- 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the

amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

- A. *Application for Payment:*
 - 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record

documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions

above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and

damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

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

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
 - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agree with the other party to submit the dispute to another dispute resolution process; or
 - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

18.02 *Computation of Times*

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

18.03 *Cumulative Remedies*

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

18.04 *Limitation of Damages*

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

18.05 *No Waiver*

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

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

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

SUPPLEMENTARY CONDITIONS

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the **Standard General Conditions of the Construction Contract, EJCDC No. C-700 (2013 Edition)**. All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

SC-1.01.A.8. Add the following language to the end of Paragraph 1.01.A.8:

The Change Order form to be used on this Project is bound in the Miscellaneous Forms section.

SC-1.01.A.40. Add the following new subparagraph to the end of Paragraph 1.01.A.40:

- a. Substantial Completion shall include, but not be limited to, installation, testing, and initial cleanup. Final Acceptance will not be made until the entire project has been completed including final cleanup.

SC-4.01.A. Delete Paragraph 4.01.A in its entirety and insert the following in its place:

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

SC-5.03. Add the following new paragraphs immediately after Paragraph 5.03.B:

- C. The following reports of explorations and tests of subsurface conditions at or contiguous to the site are known to Owner:
 - 1. Report dated December 12, 2025 prepared by Certified Testing Services, Inc., entitled: Northeast Substation, consisting of 42 pages. The “technical data” contained in such report upon which Contractor may rely is none.
- D. The reports and drawings identified above are not part of the Contract Documents, but the “technical data” contained therein upon which Contractor may rely, as expressly identified and established above, are incorporated in the Contract Documents by reference. Contractor is not entitled to rely upon any other information and data known to or identified by Owner or Engineer.
- E. Copies of reports and drawings identified in SC-5.03.C and SC-5.03.D that are not included with the Bidding Documents may be examined at the Office of the Engineer, during regular business hours.

SC – 6.03.I.3 Replace the number “10” with the number “30”, in reference to the number of days’ notice to the Owner prior to cancellation of the insurance policies.

SC-6.03. Add the following new paragraphs immediately after Paragraph 6.03.J:

K. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers’ Compensation and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:

a.	State:	Statutory
b.	Applicable Federal (e.g., Longshoreman’s):	Statutory
c.	Employer’s Liability:	
	Bodily injury, each accident	\$ 500,000
	Bodily injury by disease, each employee	\$ 500,000
	Bodily injury/disease aggregate	\$ 500,000

The Workers’ Compensation policy shall include a waiver of subrogation clause in favor of the Owner.

2. Contractor’s General Liability under Paragraphs 6.03.B through 6.03.C of the General Conditions.

a.	General Aggregate	\$ 1,000,000
b.	Products - Completed Operations Aggregate	\$ 1,000,000
c.	Personal and Advertising Injury	\$ 1,000,000
d.	Each Occurrence (Bodily Injury and Property Damage)	\$ 1,000,000

3. Automobile Liability under Paragraph 6.03.D. of the General Conditions:

a.	Combined Single Limit of	\$ 1,000,000

4. Excess or Umbrella Liability:

a.	Per Occurrence	\$ 1,000,000
b.	General Aggregate	\$ 2,000,000

5. The following shall be included as additional insured and certificate holders in addition to any other individuals or entities identified in the contract documents.

Engineer:

DeWild Grant Reckert and Associates Company d/b/a DGR Engineering
1302 South Union Street
Rock Rapids, Iowa, 51246

Owner:

City of Wayne, Nebraska
513 Main Street
Wayne, NE 68787

SC-7.02. Add the following new paragraphs immediately after Paragraph 7.02.B:

- C. It shall be specifically understood that any work relating to this contract shall not be performed on Sunday unless an emergency arises and special permission is given by the Owner.
- D. Work will be permitted on Saturday; however, involvement of the Owner's personnel will not be allowed. Saturday work must be approved by the Owner.

SC-7.06. Add the following new paragraphs immediately after Paragraph 7.06.O:

- P. The Contractor shall not award work valued at more than fifty percent (50%) of the Contract Price to Subcontractor(s), without prior written approval of the Owner.

SC-7.06. Add the following subparagraph immediately after Paragraph 7.06.P:

- Q. **Prompt payment to subcontractors.** Each subcontract under this Contract must require the Contractor to pay any subcontractor within ten days of the Contractor's receipt of payment from the Owner for undisputed services provided by the subcontractor. The subcontract agreement must require the Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

SC-7.09. Add the following new subparagraph to the end of Paragraph 7.09.A:

- 1 CONTRACTOR shall pay all sales, use and excise taxes, and such taxes shall be incidental to the Work and included in the Contract Prices.

SC-9.11. Add the following new paragraph immediately after Paragraph 9.11.A:

- B. On request of Contractor prior to the execution of any Change Order involving a significant increase in the Contract Price, Owner shall furnish to Contractor reasonable evidence that adequate financial arrangements have been made by Owner to enable Owner to fulfill the increased financial obligations to be undertaken by Owner as a result of such Change Order.

SC-9.13. Add the following new paragraph immediately after Paragraph 9.12:

- 9.13. Owner will furnish an “Owner’s Site Representative” to represent Owner at the Site and assist Owner in observing the progress and quality of the Work. The Owner’s Site Representative is not Engineer’s consultant, agent, or employee. Owner’s Site Representative will be an employee of Owner. The authority and responsibilities of Owner’s Site Representative will be as defined and described at the Preconstruction Conference (Paragraph 2.04).

SC-10.03. Add the following new paragraph immediately after Paragraph 10.03.A:

- B. On this Project, by agreement with the Owner, Engineer will not furnish a Resident Project Representative to represent Engineer at the Site or assist Engineer in observing the progress and quality of the Work. The authority and responsibilities of the Resident Project Representative (RPR) will be defined and described at the Preconstruction Conference (paragraph 2.04).

SC-13.03.E. Delete Paragraph 13.03.E in its entirety and insert the following in its place:

- E. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
 - 1. if the Bid price of a particular item of Unit Price Work amounts to 20 percent or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than 20 percent from the estimated quantity of such item indicated in the Agreement; and
 - 2. if there is no corresponding adjustment with respect to any other item of Work; and
 - 3. if Contractor believes that Contractor has incurred additional expense as a result thereof or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, either Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Article 10 if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

SC-15.01.B.3. Add the following language at the end of Paragraph 15.01.B.3.:

No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Contractor.

SC-15.01.D.1. Delete Paragraph 15.01.D.1 in its entirety and insert the following in its place:

1. The Application for Payment with Engineer's recommendations will be presented to the Owner for consideration. If the Owner finds the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 15.01.E will become due ten days after the Application for Payment is approved by the Owner, and when due will be paid by Owner to Contractor.

SC-15.08.F. Add the following subparagraph to paragraph 15.08:

- F. Contractor shall provide a correction period (warranty) of two (2) years from date of substantial completion for the following items:
 1. All work.

SC-17.01. Add the following subparagraphs to Paragraph 17.01.B.3:

- C. If Owner or Contractor have a disputed matter per Paragraph 17.01.A, the following process shall apply:
 1. Within 30 days of the submittal of such claim, Owner and Contractor shall meet and confer regarding the Claim. A good-faith effort to negotiate resolution shall be made by both parties.
 2. If the negotiations contemplated by Paragraph SC-17.01.C.1 are unsuccessful, management representatives of Owner and Contractor at least one tier above the individuals who met under SC 17.01.C.1 shall meet, confer, and negotiate within 30 days of the closure of the unsuccessful negotiations.
 3. If the Claim is not resolved by negotiation, Engineer's decision regarding Change Proposals or other requests for decisions shall become final and binding 30 days after termination of the negotiations unless, within that time period, Owner or Contractor:
 - a. gives to the other party written notice of intent to submit the Claim to a court of competent jurisdiction, or
 - b. agrees with the other party to submit the Claim to another dispute resolution process.

4. Notwithstanding any applicable statute of limitations, a party giving notice under Paragraph SC 17.01.C.3.a shall commence an action on the Claim within one year of giving such notice. Failure to do so shall result in the Claim being time-barred and Engineer's action or denial shall become final and binding.

END OF SECTION

DRAFT

CATEGORY III

Technical Specifications

- **Division 1**
- **Division 31**

DRAFT

TECHNICAL SPECIFICATIONS

DRAFT

DIVISION 1 - GENERAL REQUIREMENTS

SECTION 01 1100
SUMMARY OF WORK

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section presents a summary of the intended Work and the Contractor's duties and use of premises relating to the substation project.

1.02 AWARD OF CONTRACTS:

- A. One contract will be awarded for the entire project.

1.03 CONTRACTORS' DUTIES:

- A. Except as specifically noted, provide and pay for:
 - 1. Labor, materials, and equipment.
 - 2. Tools, construction equipment, and machinery.
 - 3. Water, heat, and utilities required for construction.
 - 4. Other facilities and services necessary for proper execution and completion of Work.
 - 5. All applicable taxes and fees including sales and use taxes.
- B. Secure and pay for, as necessary for proper execution and completion of Work, and as applicable at time of receipt of bids:
 - 1. Permits, including building permits.
 - 2. Government fees.
 - 3. Licenses.
- C. Give required notices.
- D. Comply with codes, ordinances, rules, regulations, orders, and other legal requirements of public authorities that relate to performance of Work.
 - 1. Promptly submit written notice to Engineer of observed variance of Contract Documents from legal requirements.

SECTION 01 1100

2. Assume responsibility for Work known to be contrary to legal requirements if notice is not submitted.
 3. Necessary changes to the Contract Documents will be accomplished by Change Order if the Contract price or completion time is affected.
- E. Enforce strict discipline and good order among employees. Do not employ on Work:
1. Unfit persons.
 2. Persons not skilled in assigned task.

1.04 CONTRACTOR USE OF PREMISES:

- A. Confine operations at site to areas permitted by:
1. Law.
 2. Ordinances.
 3. Permits.
 4. Contract Documents.
- B. Do not unreasonably encumber site with materials or equipment.
- C. Do not load any structures with weight that will endanger structure.
- D. Assume full responsibility for protection and safekeeping of products stored on premises.
- E. Move any stored products that interfere with operations of Owner or other Contractor.
- F. Obtain and pay for use of additional storage or work areas needed for operations.

1.05 ITEMS BY OTHERS:

- A. Related items include those in the Drawings or elsewhere specified as "By Others" or "By Owner". Specific items as follows:
1. Utility removals and installations will be completed by Others.
 2. Substation construction, to be completed after site grading work is finished.
- B. Contractor shall coordinate work for all items by Others as required.

SECTION 01 1100

1.06 SITE LOCATIONS:

- A. The location of the project site is as follows:

Northeast Substation
1402 Centennial Road
Wayne, NE 68787

- B. All easements and right-of-ways necessary for the construction of the Project have been, or will be obtained by the Owner in such a manner that the construction of the Project may rapidly progress.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

SECTION 01 2000
PRICE AND PAYMENT PROCEDURES

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section presents the Price and Payment Procedures that will be utilized for the project.

1.02 GENERAL:

- A. When the proposal is made on a unit basis the Engineer may specify any combination of construction units that he/she may deem necessary.
- B. The various construction units that are included in this bid and upon which quotations are required are defined by symbols and descriptions set forth in this part.
- C. Separate assembly units are designed for each different arrangement that may be used in the construction of the project. The proposal is based on consideration of each unit in place and includes only the materials listed on the corresponding construction drawings or as spelled out herein.
- D. The bid prices stated in the proposal shall include all labor, materials, freight, drayage, loading, protection from weather, fabrication, and installation to assure the Owner that the equipment and installation will operate as specified.
- E. The Contractor shall furnish all materials unless stated otherwise on the Drawings or in the Specifications.

1.03 MEASUREMENT:

- A. Measurement for work completed is to be made on a monthly basis.
 - 1. All items will be computed in the units of the Bid Schedule.
 - a. Periodic payments for lump sum items will be on an estimated percentage of completion basis.
- B. The Contractor shall participate in the measurement of completed Work unless agreed otherwise.
 - 1. Specific differences are to be resolved at the time of measurement.

SECTION 01 2000

2. Unresolved differences shall be directed to the Engineer.

1.04 PAYMENT:

- A. All Work required to complete construction shall be deemed to be included in the unit price or lump sum price items listed in the Contractor's Bid Schedule.
- B. Payment may be allowed for material suitably stored on site, so long as adequate documentation as specified in the General Conditions is provided to the Owner's satisfaction.
- C. Neither the payment of any estimate nor of any retained percentage shall relieve the Contractor of any obligation to make good any defective Work or material.

1.05 PAYMENTS TO BE WITHHELD:

- A. Applicable retainage, as defined in the Contract Conditions, shall apply to all payments due the Contractor including payment for stored material.
- B. Amounts equal to maximum potential liquidated damages may be withheld from payments due Contractor when Work is not completed within the specified time. Such amounts shall be in addition to other payments withheld.
- C. Payments withheld will be paid as follows:
 1. Normal retainage will be paid as required by the General Conditions.
 2. Potential liquidated damages withheld will be retained until final resolution of Liquidated Damages is made by the Owner.

1.06 PAYMENT ITEMS:

- A. Payment items shall be as listed on the Bid Schedule. Measurement of completed work shall be the number of units installed for each unit price item and percentage of completion of the entire item for each lump sum item. (No separate payment will be made for mobilization, engineering, or related project initiation expenses.) Payment will be at respective unit or lump sum prices as per the Bid Schedule.
- B. Unit and lump sum prices as listed on the Bid Schedule shall be the full payment for each item as described by the applicable sections of the Technical Specifications and the Drawings.
- C. Description of Payment Items:
 1. SITE PREPARATION: A construction unit(s) consists of all labor and materials required to complete the site work as shown on the Drawings and specified herein. All other work specified, including clearing and grubbing, stockpiling, and spreading shall be incidental to the project. Specific construction units are as follows:

SECTION 01 2000

Length Items:

- M5 15" RCP Storm Sewer (lf)
- M7 4" Perforated Subdrain (lf)
- M9 Silt Fence/Wattles/Rock log (lf)

Measurement: Furnish and install specified materials. Length and work actually performed converted to bid item units (ln. ft., etc.).

Surface Area Items:

- M4 12" Subgrade Preparation (sy)
- M11 Engineering Fabric (sy)
- M14 Erosion Control Blanket (sy)

Measurement: Furnish and install specified materials. Length and width of work actually performed converted to bid item units (sq. yd., ac., etc.). The plan quantities shall be agreed upon as complete payment for the work unless additional work is requested by the Owner/Engineer during construction.

Weight Items:

- M10 Gravel Surfacing Course (ton)

Measurement: Number of tons of acceptable material disposed or furnished and installed as specified and **verified by weight tickets**. Soil sterilant shall be installed under granular surfacing as specified and shall be incidental to the cost.

Volume Items:

- M1 Excavation and Embankment (cy)
- M2 Building Footprint Mitigation Excavation (cy)
- M3 On Site Topsoil (cy)

Measurement: Plan quantities include excavation and placement of material on site (compacted volume) or import of approved lean clay materials to construct plan grades. The plan quantities shall be agreed upon as complete payment for the work unless additional work is requested by the Owner/Engineer during construction. The Contractor shall not remove suitable material from the site until construction operations are completed and accepted by the Engineer.

The Contractor will not be paid twice for material removed from the site that is subsequently returned to the site for use as embankment material.

SECTION 01 2000

Quantity Items:

M6	15" RCP Apron (ea)
M8	6" CMP Subdrain Outlet (ea)
M12	Connect to Existing Storm Sewer (ea)
M13	Stabilized Construction Entrance (ls)
M15	Inlet Protection (ea)
M16	Seeding, Fertilizing & Hydromulching (ls)

Measurement: Furnish and install specified materials. Each item performed to be paid for (ea, ls, etc.).

2. MOBILIZATION: This item shall consist of preparatory work and operations, including but not limited to the necessary movement of personnel, equipment, and incidentals to the project site; for the establishment of offices, buildings, and other facilities necessary for work on the projects; and for work and operations which must be performed, and for cost incurred before starting work on the various contract items on the project site.

When an item for Mobilization is included in the proposal, payment will be made at the contract unit lump sum price and be considered full compensation for costs incidental thereto. This unit will be paid 50% when work on construction site has begun and 50% on the final payment request at project closeout.

U1 Mobilization (as req'd.)

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

SECTION 01 3100

PROJECT MANAGEMENT AND COORDINATION

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the Contractor's project management and coordination responsibilities.

1.02 PROJECT MANAGEMENT AND COORDINATION:

- A. Verify layout information shown on Drawings, in relation to property survey and existing benchmarks, before laying out the Work.
- B. Require Installer of each component of the Work to inspect both the substrate and the conditions under which work is to be performed. Do not proceed with installation until unsatisfactory conditions have been corrected.
- C. Any Contractor or Subcontractor working on a specific portion of the project shall so schedule and conduct his work as not to impede unnecessarily any work being done by others on or adjacent to his work.
- D. The Contractor shall be aware that this project will require a high-level of coordination and scheduling with the Owner, Engineer, and major material suppliers.
- E. The Contractor shall have a construction foreman on site at all times during construction, including when subcontractors are working at the site.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

SECTION 01 3119
PROJECT MEETINGS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the intended project meetings required of the Contractor.

1.02 PAYMENT:

- A. Project meetings are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 GENERAL:

- A. Project meetings shall be coordinated among the respective Contractors, Owner, and Engineer.
- B. The individual requesting the meeting shall contact those to be in attendance in writing providing the following:
 - 1. Purpose of meeting.
 - 2. Date, time, and place.
 - 3. Names of others to be in attendance.
 - 4. Additional information as necessary.

3.02 SCHEDULE:

- A. A preconstruction conference will be scheduled by the Engineer to review the following:
 - 1. Contract Legal Documents and Specifications.
 - 2. Drawings.

SECTION 01 3119

3. General construction requirements.
 4. Coordination of different contractors.
 5. Pay request procedure.
 6. Shop drawing submittal.
 7. Project observation and inspection.
 8. Coordination with affected agencies and utility companies.
- B. Progress meetings shall be scheduled and held as the need arises throughout the Work.

* * * END OF SECTION * * *

SECTION 01 3213
CONSTRUCTION SCHEDULE

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the Contractor's project management and coordination responsibilities.

1.02 CONSTRUCTION SCHEDULE:

- A. Prepare a horizontal bar-chart-type, construction schedule. Provide a separate time bar for each activity and a vertical line to identify the first workday of each week. As Work progresses, mark each bar to indicate actual completion.
 - 1. Submit within 20 days after the notification of award of contract.
 - 2. Prepare the schedule on reproducible media, of width sufficient to show data for the entire construction period.
 - 3. Coordinate each element with other activities. Show each activity in proper sequence. Indicate sequences necessary for completion of related Work.
 - 4. Indicate Substantial Completion and allow time for Engineer's procedures necessary for certifying Substantial Completion.
 - 5. Schedule Distribution: Distribute copies to Owner, Engineer, subcontractors, and parties required to comply with dates.
 - 6. Updating: Revise the schedule after each meeting or activity where revisions have been made.
- B. The following dates are the Owner's suggested schedule; however, the dates marked with an asterisk are dates that must be met for the associated activity.

<u>Task</u>	<u>Required Completion</u> <u>Date</u>
Receive Proposals	
Site work and grading complete, Project Substantially Complete and Ready for substation construction	7/15/26*
Final Completion of all work including Final Documents	8/15/26

*Liquidated damages apply to these dates for this Contractor.

SECTION 01 3213

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

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SECTION 01 3236
PROJECT RECORD DOCUMENTS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the Contractor's responsibilities regarding the assembly and maintenance of project records.

1.02 PAYMENT:

- A. Project record documents are considered incidental Work with no separate measurement or payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 GENERAL:

- A. Maintain at office one copy of:
 - 1. Contract Legal Documents and Specifications.
 - 2. Addenda.
 - 3. Drawings.
 - 4. Staking sheets.
 - 5. Construction schedules and progress reports.
 - 6. Minutes of preconstruction conference and other construction meetings.
 - 7. Shop Drawings.
 - 8. Change Orders.
 - 9. Field Orders.
 - 10. Test reports.

SECTION 01 3236

- B. File documents in an orderly, readily accessible manner.

3.02 RECORDING:

- A. Legibly mark documents to record location of other facilities and changes made by Change Order or Field Order.
- B. Keep project records current.

3.03 SUBMITTAL:

- A. At completion of construction, the Drawings indicating 'as constructed' and buried facility information shall be delivered to the Engineer.
- B. With completion of record Drawings, the Contractor's Drawings will be returned if so requested.

* * * END OF SECTION * * *

SECTION 01 3300
SUBMITTAL PROCEDURES

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the submittal procedures the Contractor shall follow for the project.

1.02 SHOP DRAWINGS, PROJECT DATA, AND SAMPLES:

- A. SHOP DRAWINGS: Original drawings, prepared by Contractor, subcontractor, supplier, or distributor, which illustrate some portion of the Work; showing fabrication, layout, setting or erection details.
 - 1. Prepared by a qualified detailer.
 - 2. Identify details by reference to specification section or detail number from the Drawings.
 - 3. Minimum sheet size: 8-1/2" x 11".
 - 4. Maximum sheet size: 11" x 17".
- B. PROJECT DATA:
 - 1. Manufacturer's catalog sheets, brochures, diagrams, schedules, performance charts, illustrations, and other standard descriptive data.
 - a. Clearly mark each copy to identify pertinent materials, products or models.
 - b. Show dimensions and clearances required.
 - c. Show performance characteristics and capacities.
 - d. Show wiring diagrams and controls.
- C. CONTRACTOR RESPONSIBILITIES:
 - 1. Review Shop Drawings, Project Data, and Samples prior to submission to Engineer for review.

SECTION 01 3300

2. Verify:
 - a. Performance criteria.
 - b. Field measurements.
 - c. Field construction criteria.
 - d. Catalog numbers and similar data.
3. Coordinate the timing of each submittal with requirements of the Work.
4. Contractor's responsibility for errors and omissions in submittals is not relieved by Engineer's review of submittals.
5. Contractor's responsibility for deviations in submittals from requirements of Contract Documents is not relieved by Engineer's review of submittals, unless Engineer gives written acceptance of specific deviations.
6. Notify Engineer, in writing at time of submission, of deviations in submittals from requirements of Contract Documents.
7. Begin no work that requires submittals until return of submittals with Engineer's stamp and initials or signature indicating review.
8. After Engineer's review, distribute copies.

D. SUBMISSION REQUIREMENTS:

1. Schedule submissions at least fourteen (14) days before date reviewed submittals will be needed.
2. Accompany submittals with transmittal letter, in duplicate, containing:
 - a. Date.
 - b. Project title and number.
 - c. Contractor's name and address.
 - d. The number of each Shop Drawing, Project Data, and Sample submitted. Four (4) copies of all submittals are required.
 - e. Notification of deviations from Contract Legal Documents, Specifications and Drawings.
 - f. Other pertinent data.

SECTION 01 3300

3. Submittals shall include:

- a. Date and revision dates.
- b. The names of:
 - (1) Subcontractor.
 - (2) Supplier.
 - (3) Manufacturer.
 - (4) Separate detailer when pertinent.
- c. Identification of product or material.
- d. Relation to adjacent structure or materials.
- e. Field dimensions clearly identified as such.
- f. Specification section number.
- g. Applicable standards, such as ASTM number or Federal Specification.
- h. A statement signed by the Contractor that the submittal has been reviewed and meets the requirements except as noted.

E. ENGINEER'S DUTIES:

- 1. Review and return within fourteen (14) days of receipt.
- 2. Review of separate items does not constitute review of an assembly in which item functions.
- 3. Affix stamp and initials or signature certifying review of submittal noting one of the following:
 - a. No exception taken.
 - b. Make corrections noted – No resubmittal required.
 - c. Revise and resubmit.
 - d. Submit specified item.
 - e. Rejected.

SECTION 01 3300

4. Return submittals to Contractor for:
 - a. Distribution if marked "No exceptions taken" or "Make corrections noted – No resubmittal required".
 - b. Resubmittal if marked "Revise and resubmit," "Submit specified item" or "Rejected."

F. RESUBMISSION REQUIREMENTS:

1. Shop Drawings:
 - a. Revise initial drawings as required and resubmit as specified for initial submittal.
 - b. Indicate on drawings any changes which have been made other than those requested by Engineer.

G. DISTRIBUTION OF SUBMITTALS AFTER REVIEW:

1. Contractor shall distribute reviewed copies of Shop Drawings and Project Data that carries the Engineer's stamp, to:
 - a. Contractor's file.
 - b. Job site file.
 - c. Supplier, as appropriate.
2. Engineer will distribute reviewed copies of Shop Drawings and Project Data to:
 - a. Engineer's file.
 - b. Resident Project Representative, if applicable.
 - c. Owner.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

SECTION 01 3523
SAFETY REQUIREMENTS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the safety requirements that the Contractor shall follow.

1.02 OCCUPATIONAL SAFETY AND HEALTH STANDARDS:

- A. The Contractor shall be responsible for the proper application of the Occupational Safety and Health Standards (OSHS) regarding construction of the project. The Owner will not be responsible for enforcing any part of the OSHS with respect to the Contractor's equipment or labor practices.

1.03 OWNER'S SAFETY STANDARDS:

- A. The Contractor shall follow all aspects of the Owner's Safety Standards and program.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

SECTION 01 4113
APPLICABLE CODES AND STANDARDS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the Contractor's responsibilities to adhere to applicable codes and standards.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

1.03 CODES AND STANDARDS:

- A. Design and workmanship of installation and material shall be judged by tests and requirements set forth in the latest revisions of the following codes and standards:
 - 1. American Society for Testing Materials (ASTM).
 - 2. American National Standards Institute (ANSI).
 - 3. American Institute of Steel Construction (AISC).
 - 4. American Concrete Institute (ACI).
 - 5. National Electrical Manufacturer's Association (NEMA).
 - 6. National Electrical Code (NEC).
 - 7. National Electric Safety Code (NESC).
 - 8. Uniform Building Code (UBC).
 - 9. Insulated Cable Engineers Association (ICEA).
 - 10. Institute of Electronic and Electrical Engineers (IEEE).
- B. Where these specifications specifically reference codes or standards and make changes or interpretations of codes or standards, the unchanged provisions of said codes or standards shall remain in effect.

SECTION 01 4113

- C. Where these specifications provide more stringent requirements than referenced standards, the specifications shall prevail.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

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SECTION 01 4126
PERMITS, LAWS, AND ORDINANCES

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the Contractor's responsibilities pertaining to permits, laws, and ordinances.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 GENERAL:

- A. The Contractor shall comply with all Federal, State, County, and local laws, ordinances and rules and regulations relating to the performance of the Work.

3.02 PERMITS:

- A. The Contractor shall, at his expense, procure all permits, certificates, and licenses required of him by law for the execution of his Work, including building permits.

* * * END OF SECTION * * *

SECTION 01 4500
QUALITY CONTROL

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the quality control items pertaining to the project.

1.02 QUALITY CONTROL:

- A. Quality-control services include inspection, tests, and related actions including reports performed by Contractor, by independent agencies, and by governing authorities.
- B. Contractor shall employ and pay a qualified independent testing agency to perform tests and inspections specified in other Sections, and those required by authorities having jurisdiction.
 - 1. Contractor is responsible for scheduling inspections and tests.
- C. Retesting: Contractor shall pay for retesting where results of inspections and tests prove unsatisfactory and indicate noncompliance with requirements.
- D. Auxiliary Services: Cooperate with agencies performing inspections and tests. Provide auxiliary serves as requested. Notify agency in advance of operations requiring tests or inspections, to permit assignment of personnel. Auxiliary services include the following:
 - 1. Access to the Work.
 - 2. Incidental labor and facilities to assist inspections and tests.
 - 3. Adequate quantities of samples of materials that require testing and assisting in taking samples.
 - 4. Facilities for storage and curing of test samples.
- E. Duties of Testing Agency: Testing agency shall cooperate with Engineer and Contractor in performing its duties. Agency shall provide qualified personnel to perform inspections and tests.
 - 1. Agency shall notify Engineer and Contractor of irregularities or deficiencies observed in the Work during performance of its services.

SECTION 01 4500

2. Agency shall not release, revoke, alter, or enlarge requirements of the Contract Documents or approve or accept any portion of the Work.
 3. Agency shall not perform duties of Contractor.
- F. Submittals: Testing agency shall submit a certified written report of each inspection and test to the following:
1. Owner.
 2. Engineer.
 3. Contractor.
 4. Structural Engineer.
 5. Authorities having jurisdiction, when authorities so direct.
- G. Report Data: Reports of each inspection, test, or similar service shall include at least the following:
1. Date of issue.
 2. Project title and number.
 3. Name, address, and telephone number of testing agency.
 4. Dates and locations of samples and tests or inspections.
 5. Names of individuals making the inspection or test.
 6. Designation of the Work and test method.
 7. Identification of product.
 8. Complete inspection or test data.
 9. Test results and interpretation of test results.
 10. Ambient conditions at the time of sample taking and testing.
 11. Comments or professional opinion on whether inspected or tested Work complies with requirements.
 12. Name and signature of laboratory inspector.
 13. Recommendations on retesting or re-inspection.

SECTION 01 4500

H. Qualifications for Service Agencies: Engage inspection and testing service agencies that are prequalified as complying with the American Council of Independent Laboratories' "Quality Assurance Manual" and that specialize in the types of inspections and tests to be performed.

1. Each agency shall be authorized by authorities having jurisdiction to operate in the state where the Project is located.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

SECTION 01 5000
TEMPORARY FACILITIES AND CONTROLS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the temporary facilities and controls the Contractor needs to adhere to for the project.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS

2.01 MATERIALS AND EQUIPMENT:

- A. Provide new materials and equipment for construction of temporary facilities and controls.

PART 3 - EXECUTION

3.01 TEMPORARY UTILITIES:

- A. Provide temporary heat for curing or drying of work, and for protection of new construction from adverse effects of low temperatures. Proper safety controls and devices shall be on all temporary heating and ventilation equipment used. Use of gasoline-burning heaters and open-flame heaters is not permitted.
- B. Provide temporary sanitary facilities. Comply with regulations and health codes for type, number, location, and maintenance of facilities. Temporary toilet facilities shall be removed from the site when no longer necessary.

3.02 TEMPORARY CONSTRUCTION FACILITIES:

- A. Provide and maintain field offices, storage trailers, and other support facilities near the project site.
 - 1. Temporary facilities located within the construction area or within 30 feet (9 m) of building lines shall be of noncombustible construction.

SECTION 01 5000

- B. Provide temporary enclosures for protection of construction and workers from exposure and inclement weather and for containment of heat.
- C. Install project identification and other signs in locations approved by Owner to inform the public and persons seeking entrance to Project.
- D. Collect waste daily and dispose of waste off-site according with local ordinances, when containers are full.
 - 1. Handle hazardous, dangerous, or unsanitary waste materials separately from other waste by containerizing properly. Dispose of material according to applicable laws and regulations.
- E. Material Storage:
 - 1. Contractor shall be fully responsible and provide adequate storage for materials that must be housed against weather exposure during entire construction. Materials which may suffer any type of deterioration or damage due to weather exposure shall be covered and or housed. Housing and protection shall be approved by the Engineer. The responsible Contractor shall pay for and/or replace any damaged materials caused by his negligence or failure to provide proper protection.
 - 2. Contractor to coordinate and make all arrangements with the Owner to provide needed exterior storage.

3.03 TEMPORARY CONTROLS:

- A. Provide temporary barricades, warning signs, and lights to protect the public and construction personnel from construction hazards.
 - 1. Contractor shall build and maintain all such provisions to fully comply with all state and local safety requirements and fully protect the public and all workmen throughout the entire construction. Walkways are to be kept well-maintained, well-lit, free from ice and snow, and reasonably clean at all times.
 - 2. Furnish, install, and maintain for the duration of construction all required scaffolds, tarpaulins, barricades, canopies, warning signs, steps, bridges, platforms, and other temporary construction necessary for proper completion of the work in compliance with all pertinent safety and other regulations.

SECTION 01 5000

- B. Provide temporary environmental controls as required by authorities having jurisdiction including, but not limited to, erosion and sediment control, dust control, noise control, and pollution control.

3.04 SITE COMMUNICATIONS:

- A. The construction foreman shall be equipped with a cellular phone permitting on-site communications during all times of the construction activity.

3.05 TRAFFIC CONTROL:

- A. The Contractor shall provide, erect and maintain at all times, during the execution of the work and until completion and final acceptance thereof, suitable and requisite barricades, signs and other types of traffic control devices as may be necessary to ensure the safety of the public as well as those engaged in the work. Where performing work near County, State, or railroad right-of-way, the Contractor shall conform to that particular entity's traffic control and other requirements.

All barricades shall be protected at night from sunset to sunrise by type "A" low intensity flashing yellow warning lights. All lights shall meet the standards of Section 6E-5 of the "Manual on Uniform Traffic Control Devices (MUTCD)".

3.06 BARRICADES AND LIGHTS:

- A. All open trenches and other excavations shall be protected with suitable barriers, signs and lights to the extent that adequate protection is provided to the public against accident by reason of such open construction. Obstructions such as material piles and equipment shall be provided with similar warning signs and lights.
- B. All barricades and obstructions shall be illuminated by means of acceptable warning lights at night and all lights used for this purpose shall be kept on from sunset to sunrise. Materials stored upon or alongside public streets, roads and highways shall be so placed that the work at all times shall be so conducted as to cause the minimum obstruction and inconvenience to the traveling public.
- C. All barricades, signs, warning lights and other protective devices shall be installed and maintained in conformance with applicable statutory requirements and where within right of ways as required by the authority having jurisdiction thereover.

* * * END OF SECTION * * *

SECTION 01 6000
PRODUCT REQUIREMENTS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the product requirements for the project.

1.02 SECTION REQUIREMENTS:

- A. To fullest extent possible, provide products, materials, and equipment of same kind from a single source.
- B. Equipment manufactured within the continental limits of the United States shall be encouraged.
- C. Deliver, store, and handle products, materials, and equipment according to manufacturer's written instructions, using all means and methods that will prevent damage, deterioration, and loss, including theft.
 - 1. Schedule delivery to minimize long-term storage and to prevent overcrowding construction spaces.
 - 2. Deliver in manufacturer's original sealed packaging with labels and written instructions for handling, storing, protecting, and installing.
 - 3. Inspect to ensure compliance with the Contract Documents and to ensure items are undamaged and properly protected.
 - 4. Store heavy items in a manner that will not endanger supporting construction.
 - 5. Store items subject to damage aboveground, under cover in a weather tight enclosure, with ventilation adequate to prevent condensation. Maintain temperature and humidity within range required.

PART 2 - PRODUCTS

2.01 PRODUCT OPTIONS:

- A. Provide items that comply with the Contract Documents, are undamaged, and are new at the time of installation.

SECTION 01 6000

1. Provide products and equipment complete with accessories, trim, finish, and other devices and components needed for a complete installation and the intended use and effect.
- B. Do not attach manufacturer's labels or trademarks, except for required nameplates, on surfaces exposed to view in occupied spaces or on the exterior.
- C. Select products, materials, and equipment as follows:
 1. Where these Specifications name only a single product, equipment, or manufacturer, provide the item indicated. No substitutions will be permitted.
 2. Where these Specifications name 2 or more products, equipment or manufacturers, provide 1 of the items indicated. No substitutions will be permitted.
 3. Where products or equipment are specified by name, accompanied by the term "or equal," comply with provisions concerning "substitutions" to obtain approval for use of an unnamed product or equipment.
 4. Where these Specifications describe a product, material, or equipment, listing characteristics required, provide an item that provides the characteristics and complies with requirements.
 5. Where these Specifications require compliance with performance requirements, provide products, materials, or equipment that comply and are recommended in writing by the manufacturer for the application.
- D. Unless otherwise indicated, Engineer will select color, pattern, and texture of any product, material, or equipment from manufacturer's full range of options.

2.02 PRODUCT SUBSTITUTIONS:

- A. Submit four copies of each request for product substitution. Identify product to be replaced, provide complete documentation showing compliance of proposed substitution with all specified requirements, and include the following:
 1. A full comparison with the specified product.
 2. A list of changes to other Work required to accommodate the substitution.
 3. Any proposed changes in the Contract Sum or Contract Time should the substitution be accepted.
- B. Engineer will review the proposed substitution and notify Contractor of its acceptance or rejection.

SECTION 01 6000

PART 3 - EXECUTION: – Not Applicable.

* * * END OF SECTION * * *

DRAFT

SECTION 01 6500
PRODUCT DELIVERY REQUIREMENTS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the requirements that the Contractor shall follow for all products that will be delivered to the project site.

1.02 DELIVERY, STORAGE, AND HANDLING:

- A. Contractor shall make arrangements to receive, unload, and store project materials.
- B. Materials shall be addressed and delivered to the Contractor's project facilities.
- C. The Owner will not receive, unload, or store the Contractor's materials.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

SECTION 01 7100
EXAMINATION AND PREPARATION

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the examination and preparation requirements the Contractor shall conform to during construction.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 EXAMINATION:

- A. Examine substrates and conditions for compliance with manufacturer's written requirements including, but not limited to, surfaces that are sound, level, and plumb; substrates within installation tolerances; surfaces that are smooth, clean, and free of deleterious substances; and application conditions within environmental limits. Do not proceed with installation until unsatisfactory conditions have been corrected.

3.02 PROTECTION OF OTHER UTILITIES:

- A. Have all foreign utilities located by contacting Gopher State One-Call at 1-800-252-1166.
- B. Give foreign utility management 48-hour notice prior to excavating in a questioned area. After exposing the foreign utility, notification shall again be given the foreign utility management to allow for on-site inspection before the backfilling operation shall begin. The Contractor, from time to time, shall assist the foreign utility in exposing parallel or intersecting lines to ensure that no damage will be done.
- C. Do all things necessary or expedient to properly protect all parallel, converging and intersection lines, joint trenches, highways, pipelines, and all property of others from damage. Make minor trench location adjustments, if necessary.

SECTION 01 7100

- D. In the event that such parallel, converging and intersection lines, joint lines, poles, highways or other property are damaged during construction of the project, the Contractor shall at his/her own expense restore any or all of such damaged property immediately to as good a state as before such damage occurred.

3.03 PREPARATION

- A. Prepare substrates and adjoining surfaces according to manufacturer's written instructions, including, but not limited to, the application of fillers and primers.

* * * END OF SECTION * * *

DRAFT

SECTION 01 7300
EXECUTION REQUIREMENTS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the execution requirements that the Contractor shall follow during construction.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 CUTTING AND PATCHING:

- A. Do not cut structural members without prior written approval of Engineer.
- B. For patching, provide materials whose installed performance will equal or surpass that of existing materials. For exposed surfaces, provide or finish materials to visually match existing adjacent surfaces to the fullest extent possible.
- C. All cutting is by the Contractor responsible for the work. All patching is by the general Contractor.

3.02 EXCAVATIONS:

- A. When working in trenches or excavations, Contractor shall incorporate required shoring of sidewalls, including trench boxes, braces, or other means of shoring to ensure the safety of all personnel.
- B. Contractor is responsible for all open excavations associated with the Contract. Guard open or unattended trenches, foundations, or pole holes 4 inches or more in width with one of the following methods:
 - 1. 1/2-inch plywood that is weighted to prevent movement during windy conditions.

SECTION 01 7300

2. Continuous snow fence and appropriate flashing warning lights.

3.03 INSTALLATION:

- A. Comply with manufacturer's written instructions for installation. Anchor each product securely in place, accurately located and aligned. Clean exposed surfaces and protect from damage. If applicable, prepare surfaces for field finishing.

3.04 SPECIAL PRECAUTIONS FOR WORK IN MANHOLES:

- A. Follow all confined space safety procedures when working in manholes.
- B. Before entering any existing or completed manholes, provide fresh air to the manhole by using adequate mechanical ventilating equipment.
- C. Care shall be taken to avoid fire or explosion in manholes. No smoking, fire, or open lights are allowed in any manhole.

3.05 PROPERTY DAMAGES:

- A. The Contractor shall limit the movement of its crews and equipment so as to cause as little damage as possible to lawns, gardens, crops, orchards, or property and shall endeavor to avoid marring the lands. All fences that are damaged shall be replaced in as good condition as they were found and precautions shall be taken to prevent the escape of livestock. The Contractor shall be responsible for all loss of or damage to the above property whether on or off the right-of-way caused by his crews during the construction of the project and shall restore them to their original condition.
- B. The Contractor shall be responsible for all damage to any existing city, state, county, township, or private streets, roads, parks, railroads, or other property by reason of its operation, or those of its subcontractors. The Contractor shall take all necessary precautions to avoid damages to all roads and comply with all load limits. The Contractor shall repair all roads damaged by their crews in a timely fashion.

* * * END OF SECTION * * *

SECTION 01 7400
CLEANING AND DISPOSAL MANAGEMENT

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the cleaning and disposal management that the Contractor shall conform to during construction.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 DISPOSAL OF SALVAGE MATERIALS:

- A. Unless otherwise specified below, all salvage materials are property of the Contractor.
- B. Properly dispose of all non-salvageable materials at Contractor's expense.

3.02 PROTECTION AND CLEANING OF SITE:

- A. Protect all structures within the construction limits.
- B. At all times maintain premises free from accumulations of waste material and rubbish.
 - 1. Upon completion of Work remove all rubbish, tools, and surplus materials from premises.
 - 2. Leave all work in "broom clean" condition, unless more exactly specified elsewhere.
- C. Where sodded areas were disturbed, restore surface to original elevation, replacing final 6 inches with topsoil, rake smoothly, and reseed.

SECTION 01 7400

1. Drainageways disturbed by trenching operations shall be restored as nearly as possible to their original grade and cross section.
- D. At the end of each day's work leave construction area in such a condition so to permit unencumbered access to all private properties in vicinity of Project.
- E. At completion of Work, remove waste materials, rubbish, tools, equipment, machinery and surplus materials and clean all sight-exposed surfaces; leave project clean and ready for occupancy.
- F. Hazards Control:
 1. Store volatile waste in covered metal containers and remove from premises daily.
 2. Prevent accumulation of waste which create hazardous conditions.
- G. Conduct cleaning and disposal operations to comply with local ordinances and anti-pollution laws.
 1. Do not burn or bury rubbish and waste materials on project site.
 2. Do not dispose of volatile waste such as mineral spirits, oil, or paint thinner in storm or sanitary drains.
 3. Do not dispose of waste into streams or waterways.
- H. Wet down dry materials and rubbish to lay dust and prevent blowing dust.
- I. At reasonable intervals during progress of work, clean site and public properties, and dispose of waste materials, debris and rubbish. Legally dispose of at public or private dumping areas off Owner's property.
- J. Provide on-site containers for collection of waste materials, debris, and rubbish.
- K. Handle materials in a controlled manner with as few handlings as possible; do not drop or throw materials from heights.
- L. Employ experienced workmen, or professional cleaners, for final cleaning.
- M. In preparation for substantial completion or occupancy, conduct final inspection of project site.
- N. Maintain cleaning until project, or portion thereof, is occupied by Owner.

SECTION 01 7400

3.03 FINAL CLEANING:

- A. Clean each surface or item as follows before requesting inspection for certification of Substantial Completion:
1. Remove labels that are not permanent.
 2. Clean transparent materials, including mirrors. Remove excess glazing compounds. Replace chipped or broken glass.
 3. Clean exposed finishes to a dust-free condition, free of stains, films, and foreign substances. Leave concrete floors broom clean.
 4. Wipe surfaces of mechanical and electrical equipment. Remove excess lubrication. Clean light fixtures and lamps.
 5. Clean the site. Sweep paved areas; remove stains, spills, and foreign deposits. Rake grounds to a smooth, even-textured surface.

* * * END OF SECTION * * *

SECTION 01 7513
CHECKOUT PROCEDURES

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the checkout procedures that the Contractor shall conform to during final construction.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

1.03 PERFORMANCE AND FUNCTIONAL TESTING:

- A. The Owner may contract with a third party to perform tests if any of the work appears to be deficient.
- B. The Contractor shall correct work that is found to be nonconforming with the plans and specifications.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

SECTION 01 7800
CLOSEOUT SUBMITTALS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the execution requirements that the Contractor shall follow during construction.

1.02 SUBMITTALS:

- A. Record Drawings: Maintain one (1) set of Contract Drawings as Record Drawings. Mark to show installation that varies from the Work originally shown.
- B. Record Specifications: Maintain one (1) copy of the Project Manual, including addenda, as Record Specifications. Mark to show variations in Work performed in comparison with the text of the Specifications and modifications.
- C. Operation and Maintenance Data:
 - 1. The Contractor shall prepare and furnish four (4) manuals of all equipment specified.
 - 2. The Manual shall cover the installation, operation, and maintenance of all equipment and material including:
 - a. Complete catalog data.
 - b. Manufacturer's literature.
 - c. Parts list.
 - d. Maintenance instructions.
 - e. Approved shop drawings.
 - f. Supplier's name, address and telephone number.
 - 3. All such literature shall be bound under hard cover and submitted to the Engineer for review and transmittal to the Owner.

SECTION 01 7800

- a. Should modification be required, the bound literature will be returned to the Contractor for modification and resubmittal to the Engineer.

1.03 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 CLOSEOUT PROCEDURES:

- A. Request Substantial Completion inspection once the following are complete:
 1. Advise Owner of pending insurance changeover requirements.
 2. Submit Record Drawings and Specifications, maintenance manuals, warranties, and similar record information.
 3. Deliver spare parts, extra stock, and similar items.
 4. Remove temporary facilities and controls.
 5. Complete final cleanup.
 6. Touch up, repair, and restore marred, exposed finishes.
 7. Obtain final inspections from authorities having jurisdiction.
 8. Obtain certificate of occupancy.
- B. Upon notification from the Contractor, the Engineer will proceed with inspection or advise Contractor of unfilled requirements. Engineer will prepare the Certificate of Substantial Completion after inspection or advise Contractor of items that must be completed or corrected before the certificate will be issued.
- C. Arrange for each installer of equipment that requires operation and maintenance to provide instruction to Owner's personnel. Include a detailed review of the following:
 1. Maintenance manuals.

SECTION 01 7800

2. Spare parts, tools, and materials.
3. Lubricants and fuels.
4. Identification systems.
5. Control sequences.
6. Hazards.
7. Warranties and bonds.

D. Final Completion procedures include supplying the following documentation:

1. Waiver and Release of Lien forms from the Contractor and all associated subcontractors and suppliers. No partial or conditional lien waivers will be accepted.
2. Certificate of Contractor and Indemnity Agreement.
3. Contractor's statement of taxes paid.
4. Other final documents required by the Contract.

* * * END OF SECTION * * *

SECTION 01 7836

WARRANTIES

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the warranty clause that the Contractor shall conform to for the project.

1.02 WARRANTIES:

- A. See Supplemental Conditions section.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

* * * END OF SECTION * * *

DIVISION 31 - EARTHWORK

SECTION 31 0113
SUBSURFACE INFORMATION

PART 1 - GENERAL

1.01 GENERAL:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract and the GENERAL REQUIREMENTS are hereby made part of this Section.
- B. Soil borings have been performed for this project and are included in the Appendix of this project manual.
- C. Additional Investigation:
 - 1. Contractor should visit site and acquaint himself with site conditions.
 - 2. Prior to bidding, Contractor may make subsurface investigations to satisfy himself with site and subsurface conditions.

1.02 QUALITY ASSURANCE:

- A. Readjust work performed that does not meet technical or design requirements.
- B. Make no deviations from the Contract Documents without specific and written approval of Owner.

* * * END OF SECTION * * *

SECTION 31 0116

EXISTING UTILITIES, UNDERGROUND OBSTRUCTIONS, AND SUBSURFACE CONDITIONS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract and the GENERAL REQUIREMENTS (Division 1) are hereby made part of this Section.
- B. This Section describes, but is not limited to, the contact to be made with existing utilities and the Work associated with location, adjustment and repair of underground utilities and obstructions.
- C. Information or data presented herein relative to existing subsurface utilities are not a part of the Contract Documents and shall not be used by the Contractor for reference during construction of the work.

1.02 PAYMENT:

- A. Repair by the Contractor of any utilities, sewer service lines and main, field and drain tiles and other underground obstructions damaged by the Contractor's activities is considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 GENERAL:

- A. The Contractor shall take all necessary precautions to locate, protect and repair existing utilities, underground obstructions and structures.
- B. The Contractor shall be responsible for all damage to field tiles, streets, roads, highways, ditches, shoulders, embankments, culverts, bridges or other public or private property or facility, regardless of location or character, which may be caused by moving, hauling, or otherwise transporting equipment, materials or men to or from the work or any site thereof, whether by him or his subcontractor(s).

SECTION 31 0116

- C. The Contractor shall protect, shore, brace, support and maintain all underground pipes, conduits, drains and other underground construction uncovered or otherwise affected by the construction work performed by him. All pavements, surfacing, driveways, curbs, walks, buildings, utility poles, guy wires and other surface structures affected by construction operations in connection with the performance of the contract, together with all shrubs in yards and parking crossed by or adjacent to the pipeline shall be maintained, and if removed or otherwise damaged, shall be restored to the original condition thereof as determined and approved by the Resident Project Representative. All replacements of such underground construction and surface structures or replacements of such underground construction and surface structures or parts thereof shall be made with new materials conforming to the requirements of these specifications or, if not specified, as approved by the Engineer.
- D. Information and data shown or indicated on drawings of the site with respect to existing underground facilities or utilities are based on information and data furnished to the Owner or Engineer by owners of such underground facilities or by others.
- E. The Owner and Engineer are not responsible for the accuracy, completeness or precision of any such information, data or drawings. In general, it is not the intent of the Owner or Engineer to provide complete information relative to existing utilities on the Drawings.
- F. The Contractor shall have full responsibility for reviewing and checking all such information and data, for locating all existing underground facilities including water drainage projects affected by construction, for contact with owners of affected underground facilities, and for such other requirements as may be included in the specifications, the cost of all of which will be considered as incidental to the Contract Price.
- G. Information, data or drawings describing existing underground facilities or utilities are not a part of the Contract Documents.
- H. If, during any land disturbance related to the project, any bones, artifacts, foundations, or other indications of past human occupation of the area are uncovered, work at this location shall be temporarily stopped and the Engineer shall be notified at once to ensure notification of appropriate state authorities.

3.02 SUBSURFACE CONDITIONS:

- A. In the preparation of Drawings and Specifications, the Engineer may have obtained, reviewed or been informed of subsurface information not specifically collected for design or construction of this project. Such information was of a general nature and available from sources normally open to the general public.

SECTION 31 0116

- B. Printed information available to the Engineer during project design, including reports referenced above, are available at the office of the Engineer for examination during regular business hours.
- C. Subsurface information or data referenced herein are not a part of the Contract Documents.

3.03 UTILITY CONTACT:

- A. Prior to any Work, a preconstruction conference may be scheduled by the Engineer to include involvement by affected utilities. Failure of any utility to be represented at the preconstruction conference, for any reason, shall not relieve the Contractor of any responsibility described herein.
- B. Prior to Work in a specific area affecting underground utilities, all utilities shall be notified by the Contractor.

3.04 UTILITY REPAIR:

- A. When a utility line or cable is exposed or damaged, the Contractor shall comply with the repair requirements of the affected utility.
- B. When a utility cable is exposed, the Contractor shall compact the backfill beneath the exposed cable before completion of the backfill operation.
- C. The Contractor shall make, without delay, satisfactory and acceptable arrangement with the owner(s) of or the agency or authority having jurisdiction over damaged property, surface, structure, or facility concerning its repair or replacement or payment of costs incurred about said damage.

3.05 OTHER OBSTRUCTION CONTACT AND REPAIR:

- A. Where field and drain tiles are suspected, property owners shall be contacted by the Contractor.
 - 1. To locate and prevent damage to known tile, the Contractor shall not be required to excavate beyond twenty-five (25) feet either side of the reported centerline without additional compensation.
 - 2. Should additional excavation be required and compensation is desired, a Field Order shall be prepared as documentation prior to commencing the Work.
- B. Where county tile have been damaged, these shall be repaired according to county specifications and requirements.

SECTION 31 0116

C. The Contractor shall notify the Owner when field tile has been damaged and provide drawings showing the location of repaired field tile.

D. Field and Drain Tile Repair:

1. Butt-joint Method:

- a. Expose and remove damaged sections of tile so that sound, undisturbed tile lies on both sides of trench.
- b. Connect the two sides using PVC pipe butted against both sides of the existing tile.
- c. Seal and secure joint with concrete. One bag "Sacrete" mixed with water will be considered adequate for all tile 16 inches and smaller.
- d. Replace and hand tamp the soil in twelve (12) inch lifts up to the bottom of the repaired section of tile.
- e. Continue with trench backfill as per normal procedure.
- f. All tile shall be repaired within 24 hours of the time it was damaged or disturbed.

* * * END OF SECTION * * *

SECTION 31 1100
MAINTENANCE OF CLEARING

PART 1 - GENERAL

1.01 CONDITIONS OF THE CONTRACT:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract and the GENERAL REQUIREMENTS are hereby made part of this Section.
- B. The articles contained in this Section may amend, modify, supersede, void or supplement the articles of the General Conditions, and shall take precedence over the provisions of the General Conditions. Where any part of an article of the General Conditions is amended, modified, superseded or voided by a provision of this Section, provisions of such article not so specifically amended, modified, superseded or voided shall remain in effect. Where any article of the General Conditions is supplemented by this Section, all provisions of such article shall remain in effect, and the supplementary provisions of this Section shall be considered as added thereto.

1.02 SCOPE:

- A. Related requirements specified elsewhere:
 - 1. Summary of Work: Section 011100.
 - 2. Cleaning for Specific Products or Work: Project Manual section for that Work.
- B. Maintain premises and public properties free from accumulations of waste, debris, and rubbish, caused by operations.
- C. At completion of Work, remove waste materials, rubbish, tools, equipment, machinery and surplus materials and clean all sight-exposed surfaces; leave project clean and ready for occupancy.

1.03 SAFETY REQUIREMENTS:

- A. Standards: Maintain project in accordance with safety and insurance standards.
- B. Hazards Control:
 - 1. Store volatile waste in covered metal containers and remove from premises daily.
 - 2. Prevent accumulation of waste which creates hazardous conditions.

SECTION 31 1100

- C. Conduct cleaning and disposal operations to comply with local ordinances and anti-pollution laws.
 - 1. Do not burn or bury rubbish and waste materials on project site.
 - 2. Do not dispose of volatile waste such as mineral spirits, oil, or paint thinner in storm or sanitary drains.
 - 3. Do not dispose of waste into streams or waterways.

PART 2 - PRODUCTS

2.01 MATERIALS:

- A. Use only cleaning materials recommended by manufacturer of surface to be cleaned.
- B. Use cleaning materials only on surfaces recommended by cleaning material manufacturer.

PART 3 - EXECUTION

3.01 DURING CONSTRUCTION:

- A. Execute cleaning to ensure that building, grounds, and public properties are maintained free from accumulations of waste materials and rubbish.
- B. Wet down dry materials and rubbish to lay dust and prevent blowing dust.
- C. At reasonable intervals during progress of work, clean site and public properties, and dispose of waste materials, debris and rubbish.
- D. Provide on-site containers for collection of waste materials, debris and rubbish.
- E. Remove waste materials, debris and rubbish from site and legally dispose of at public or private dumping areas off Owner's property.
- F. Handle materials in a controlled manner with as few handlings as possible; do not drop or throw materials from heights.
- G. Schedule cleaning operations so that dust and other contaminants resulting from cleaning process will not fall on wet, newly painted surfaces.
- H. Protect all structures within the construction limits.

SECTION 31 1100

- I. The Contractor shall manage his activities and implement protective measures as necessary to minimize soil erosion during the construction process.
- J. At the end of each day's work leave construction area in such a condition so to permit unencumbered access to all private properties in vicinity of Project.

3.02 FINAL CLEANING:

- A. Employ experienced workmen, or professional cleaners, for final cleaning.
- B. In preparation for substantial completion or occupancy, conduct final inspection of project site.
- C. Broom clean paved surfaces; rake clean other surfaces of grounds.
- D. Maintain cleaning until project, or portion thereof, is occupied by Owner.
- E. For disturbed areas on the shoulders/terraces, replace final 6 inches with topsoil and finish grade suitable for seeding.

* * * END OF SECTION * * *

SECTION 31 1200
STORM SEWERS / DRAIN TILE

PART 1 - GENERAL

1.01 SCOPE:

- A. The CONSTRUCTION AGREEMENT and other CONDITIONS of the Contract and the GENERAL REQUIREMENTS (Division 1) are hereby made part of this Section.
- B. Related requirements specified elsewhere: none.
- C. Furnish all labor, material, and equipment necessary to complete the installation of the storm sewer.
- D. Excavate all substances encountered to depths indicated on the drawings or as herein specified.
- E. Place excavated materials suitable for backfilling in orderly manner sufficiently away from banks of trench to avoid overloading and prevent slides or cave-ins.
- F. Remove and dispose of excess or unsuitable backfill materials as directed by the Engineer.
- G. Perform site grading as required to prevent surface water from entering trenches.
- H. Perform dewatering operations and/or form water diversion ditches as required to keep base for laying pipe in trench free of water.
- I. Ensure that all shoring and sheeting required complies with applicable local, state, and federal safety requirements.
- J. All trenching shall be open cut except where indicated otherwise on drawings.

1.02 QUALITY ASSURANCE:

- A. Provide manufacturer's certificate that materials meet or exceed minimum requirements as specified.

1.03 PRODUCT DELIVERY, STORAGE, AND HANDLING:

- A. During loading, transporting, and unloading, exercise care to prevent damage to materials.
- B. Do not drop pipe or fittings.

SECTION 31 1200

PART 2 - PRODUCTS

2.01 MATERIALS: See plan sheets for pipe material.

A. Reinforced Concrete Pipe:

1. Reinforced Concrete Pipe (RCP): ASTM C76, Class 2000 D, Wall B tongue and groove, machined ends, 6 ft. minimum laying length; provide reinforcement as set forth in Table III of ASTM C76; label each piece by class and show date of manufacturer.
2. Commercial joint sealing gaskets or mastic material shall be used in all joints.
3. Bends may be prefabricated or fabricated in the field by sawing pipe and installing a concrete collar around field joint.
4. Joints shall be watertight bell and spigot.

B. High Density Polyethylene (HDPE): Perforated drain tile/subdrain.

1. Pipe shall conform to Nebraska DOT Standard Specifications Section 914.
2. Use manufacturer's recommended fittings and couplings (incidental to pipe).

C. Corrugated Culverts.

1. Pipe and aprons shall conform to Nebraska DOT Standard Specifications 719.
2. Use manufacturer's recommended fittings and couplings (incidental to pipe).

D. Castings: Shall conform to standard drawings. Standard castings differing in non-essential details will be acceptable, if approved by the Engineer.

2.02 JOINT LUBRICANT:

A. As recommended by pipe manufacturer.

PART 3 - EXECUTION

3.01 TRENCH EXCAVATION:

A. General Requirements:

SECTION 31 1200

1. Keep trench minimum width necessary for proper laying of pipe and to prevent movement of existing utilities.
2. Keep banks as nearly vertical as practicable while complying with safety requirements.
3. Reinforced concrete pipe shall lay on undisturbed suitable soil or bedding at every point along its length.
4. Accurately grade bedding to provide uniform bearing and support for each pipe section.
5. Unstable trench conditions may require special rock bedding in lieu of granular bedding on the trench bottom. Where authorized by the Engineer, remove unsuitable material below the sewer invert elevation and replace with special rock bedding to the sewer invert elevation.
6. Ledge rock, boulders and large stones encountered in the excavation shall be removed to provide a minimum clearance of 12 inches below and on each side of all pipe.
7. Each pipe will be carefully inspected before it is laid and defective pipe will be rejected.
8. The pipe shall be laid up-grade beginning at the lower end of the line and shall be laid true to the grades shown on the plans. Any pipe which has its grade disturbed after laying shall be taken up and relaid. No pipe shall be laid, when in the opinion of the Engineer, weather or trench conditions will not permit a satisfactory installation.
9. Laying of pipe to true line and grade shall be accomplished by the laser beam method.
10. When pipe connects with other structures, the end shall be placed or cut off flush with the face of the structure.

3.02 EXCAVATION FOR APPURTENANCES:

A. General Requirements:

1. Excavate to leave minimum 12-inch space between outer surface of appurtenance and side of trench.
2. Fill unauthorized overdepths with compacted granular material.

SECTION 31 1200

3.03 BACKFILLING AND COMPACTING:

A. General Requirements:

1. Trenches shall not be backfilled until the pipe is checked for alignment and grade and any required tests are performed.
2. When granular backfill is specified or authorized by the Engineer, the granular backfill shall be placed from 0.5 feet below the bottom of the pipe to 0.5 feet above the top of the pipe.
3. The earth or granular backfill shall be mechanically tamped under the "spring line" and around the pipe in 6-inch layers until the pipe has not less than 12 inches of compacted cover over the top of the pipe.
4. Trenches shall then be carefully backfilled with suitable earth or gravel free from boulders, large roots, sod, and vegetation. (Site excavated materials must be evaluated and utilized as based on the soil, report no. P-0029606)
5. Backfill remainder of trench in lifts not to exceed 1 foot in loose thickness. Compact using some type of mechanical devices or equipment and moisten or aerate as required to assure consolidation.
6. Each layer shall be compacted to Standard Proctor Density as determined by ASTM D698 per the following:

a.	Unpaved areas	95 percent, with moisture -3 to +2 percent of optimum
b.	Cohesive soils under surfaced areas	95 percent, with moisture -3 to +2 percent of optimum
c.	Granular backfill under surfaced areas	100 percent with moisture -3 to +2 percent of optimum
7. Standard soil density tests may be run in locations designated by the Engineer.
8. All standard soil density tests that initially meet the specifications shall be paid for by the Contractor. All tests that fail to meet the specifications and all subsequent retesting costs including additional engineering costs shall be paid for by the Contractor. Contractor shall be responsible for scheduling the work, notifying the testing laboratory and Engineer, and allowing adequate time for all tests.

SECTION 31 1200

9. Do not disturb joint alignment or grade of pipe during backfill operation.
10. Conduct backfill operations so that no more than 100 feet of trench will be left open at any one time.

3.04 INLETS, MANHOLES AND JUNCTION BOXES:

A. Storm Drain Inlets and Junction Boxes:

1. Shall be constructed of concrete, precast concrete sections, or as shown in the standard details.
2. The concrete cover over steel reinforcing shall not be less than 2 inches.
3. All inlet, manhole and junction box bases shall be poured in place concrete unless otherwise approved by the Engineer. Groundwater shall be kept below bottom of concrete base for 24 hours after pouring.
4. Hand form smooth inverts in bottom of inlets, manholes and junction boxes to permit water to flow freely.
5. Reinforced concrete lids may be precast; however, they shall be reinforced as shown on the plans and of the size required for each specific inlet or junction box.
6. Inlets, manholes and junction boxes shall be of such size and construction as shown on the detail drawings. However, in special cases the contractor shall modify dimensions as necessary to accommodate multiple pipes at the same structure.
7. Contractor shall construct intake with a fuel resistant boot providing for a watertight connection where indicated in the standard details.

3.05 DRAIN TILE:

- A. Drain tile shall be perforated and placed as shown on the plans. Encase subdrain with 3/8" drainage aggregate with a minimum of 12" of cover. Aggregate incidental to drain tile.

3.06 EROSION AND SEDIMENT CONTROL:

- A. Protect against erosion of soils and sediment from leaving the site.
- B. Provide inlet protection once the new intake is installed. Place silt fence and rock around the inlet to prevent sediment from entering the storm sewer. Maintain silt fence and remove sediment deposits.

SECTION 31 1200

- C. Minimize the amount of native vegetation disturbed beyond the construction site. Vegetation will help prevent sediment from leaving the site. Install silt fence as shown on the plans and as needed to prevent sediment from running off the site. Maintain silt fence and remove sediment deposits when it reaches 1/3 the height of the silt fence.
- D. Contractor shall be careful to not track mud from trucks leaving the site. Contractor shall clean mud from trucks and clean adjacent streets and pavement immediately if tracking of soil occurs.

* * * END OF SECTION * * *

DRAFT

SECTION 31 2350
SITE EARTHWORK

PART 1 - GENERAL

1.01 SCOPE:

- A. The work covered by this section of the Project Manual shall include furnishing of all labor, material and equipment necessary to complete the removal and replacements items, top-soil stripping, excavation, embankment, subgrade preparation and terrace grading necessary for construction of the project.
- B. It will be the Contractor's responsibility to protect all existing utilities. Any existing utilities damaged by the Contractor will be replaced or repaired at the Contractor's expense. The Contractor is cautioned to seek the help of the appropriate utility office in locating existing lines.
- C. No excavation or stripping shall be started until the area has been cleared and grubbed and the Contractor has staked the proposed work.

1.02 RELATED WORK SPECIFIED ELSEWHERE:

- A. Soil Testing: Section 312326.
- B. Storm Sewers/Draintile: Section 311200.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 REMOVAL, ADJUSTMENT, AND REPLACEMENT ITEMS:

- A. Concrete Pavement or Asphalt Pavement:
 - 1. Concrete pavement or asphalt pavement shall be removed as shown on the plans or directed by the Engineer.
 - 2. The juncture between the existing pavement or the surfacing to remain and that to be removed shall be made by sawing or milling and carefully removing the portion required in such a manner that the remaining pavement will not be damaged.
 - 3. Street excavation material removed by the Contractor shall be used as fill in widening areas of access road. The Contractor shall place the material as specified in Paragraphs 3.02-C and D.

SECTION 31 2350

4. Concrete or asphalt pavement removed shall remain the property of the Contractor. The Contractor shall dispose of pavement at a location arranged by the Contractor.
5. Replacement shall be as shown on the plans or directed by the Engineer.

B. Concrete Curb and Gutter:

1. Concrete curb and gutter shall be as shown on the plans or as marked/directed by the Engineer.
2. The juncture between the existing curb and gutter to remain and that to be removed shall be made by sawing and carefully removing the portion required in such a manner that the remaining curb and gutter will not be damaged.
3. New curb shall be tied to existing curb by drilling two No. 4 rebar 18 inches long with 9 inches inserted into the existing curb.
4. Replacement shall be as shown on the plans or as directed by the Engineer.
5. Any curb and gutter damaged or removed which has not been marked or approved by the Engineer shall be replaced at the Contractor's expense.
6. Expansion material/board ($\frac{1}{2}$ -inch min.) shall be installed and the cost incidental, when new pavement is to abut the back of curb.

C. Sidewalks and Private Driveways:

1. The authorized removal and replacement of these items to be paid for by the Owner shall be marked in the field.
2. The outer most line of removal shall be made by neatly sawing parallel to the curb line and removing the approved portion without damaging the remaining driveway and/or sidewalk.
3. Replacement shall be from the approved line of removal to the back of curb line. Replacement thickness to be 7 inches of PCC for driveways, 5 inches of PCC for sidewalk.
4. Immediately after placement, concrete shall be properly finished. The sequence of operations shall be as follows: machine or hand finishing, longitudinal floating, straightedge finishing, belting, broom finishing and the edging of joints. The machine method of finishing shall be employed, except that on odd widths or shapes of slab sidewalks, or where approved by the Engineer, hand methods will be permitted. All finishing equipment

SECTION 31 2350

and tools shall be maintained clean, free from hardened concrete or grout, and in a condition satisfactory to the Engineer.

5. The Contractor shall protect fresh concrete surfaces that may be damaged from pedestrians, bicycles, malicious mischief, and similar occurrences, until the surface has hardened. Any surfaces which are damaged shall be removed and replaced or repaired.

D. Manhole or Valve Box Adjustments:

1. The Contractor shall adjust existing manholes, inlets and valve boxes to $\frac{1}{4}$ -inch below finished grade.
 2. A smooth neat transition from the casting to adjacent finished surface is required.
 3. All necessary materials including rings, if used, shall be furnished by the Contractor.
 - a. High density polyethylene (HDPE) rings shall be used when adjustments are made under the casting frame. Polybutene caulking compound shall be used to seal and insure watertight joints on both sides of adjustment rings.
- or ---
- b. This includes the installation of a metal riser as manufactured by U.M.A.R., Inc., Pella, Iowa, or approved equal for manhole casting adjustments. The Contractor will be required to anchor the risers to the existing castings with spot welds. The riser shall be $\frac{1}{2}$ -inch below the adjacent finished street surface. Each metal riser must be custom made for each casting.
 4. Any backfill disturbed during adjustment shall be carefully and thoroughly tamped to 95% Standard Proctor Density.
 5. Remove Precast manhole sections as needed to provide proper height. Cost incidental to the Manhole Adjustment bid item.
 6. Adapters of proper height may be used on valve boxes.

3.02 EXCAVATION, EMBANKMENT, AND GRADING:

A. General:

1. The entire subgrade shall be graded to the elevation required prior to surfacing placement.

SECTION 31 2350

2. Terraces shall be graded per the plans, or as otherwise directed by the Engineer.
3. Utility appurtenances shall be located and clearly marked to avoid damage to same. Any items so damaged shall be repaired or replaced at the Contractor's expense.
4. Waste: Excavated material not needed or unsuitable for use on site shall be disposed of by the Contractor in locations designated by the Contractor or as legally directed.
5. A sufficient quantity of native topsoil, free from gravel and other foreign material and suitable for growing grass, shall be retained from the general excavation so that all terraces will have a surface at least 6 inches thick of this material.
6. Earthwork shall be suspended any time satisfactory results cannot be obtained because of weather conditions or inadequate equipment.
7. Suitable excavation from the site shall be used as embankment material prior to hauling embankment material from another source.

B. Excavation:

1. The Contractor shall perform all excavation, embankment and grading required for the site, including the requirements for moisture and density control as specified.
2. All suitable excavated materials shall be used on site to the extent necessary to raise the subgrade to the required elevation and to grade terraces. Topsoil with vegetation or sod shall not be used for embankment or have embankment placed thereon.
3. Site excavated materials must be evaluated and utilized as based in the soils report, see appendix.

C. Street and Terrace Embankment and Grading:

1. Embankment (fill) material required for purposes of constructing the site subgrade to the required elevation and fill for terraces shall be furnished by the Contractor from site excavation.
2. Immediately prior to the placing of fill materials, the entire area upon which embankment is to be placed, except where limited by rock, shall be scarified by means of a disc harrow (or other approved equipment) to a depth of 6 inches. Scarifying shall be done approximately parallel to the axis of the fill. A thin layer (3 inches plus or minus) of fill material shall

SECTION 31 2350

be spread over the scarified area and compacted as required in these specifications.

3. The upper 6 inches of the embankment shall be free from all rocks, wood, and other foreign material.
4. Site embankment material derived from excavation on the site shall not be measured for separate payment, the cost thereof shall be included in the unit price bid for excavation and embankment.
5. Upon completion of the site work, the Contractor shall excavate or fill to grade the terraces as described in Paragraph 3.02-A.2. or as directed by the Engineer.
6. The size and type of equipment utilized on this portion of the work shall be commensurate with the work to be accomplished.
7. Care shall be taken in working around existing utilities, trees, shrubs, and private sidewalks to avoid any damage to same.
8. The Contractor shall grade the gravel/rock driveways at a uniform slope as shown on the plans or as directed by the Engineer. All equipment, labor and granular material, if required; shall be incidental to the cost of Gravel Surfacing.
9. Embankment Fill material shall consist of a structural fill meeting the requirements listed in the soil report. Compaction requirements shall meet or exceed 31 1200-3.03-A.6.

D. Compaction:

1. The following procedure shall apply in the compaction process to the point of finished base under the pavement and shall be paid for as subgrade preparation:
 - a. This item includes all work associated with scarifying, drying material, applying water, discing, blading, and controlling moisture as necessary to compact 12 inches of subgrade below the proposed aggregate/recycled milling base to 98% of Standard Proctor density with -3 to +2% of optimum moisture. The Contractor shall be responsible for maintaining the subgrade (shape and density) in good condition prior to special backfill or paving. All work necessary to set string line, trim the subgrade, and prepare and maintain the subgrade prior to paving shall be included in this item and paid for in bid item Subgrade Preparation (not applicable to this contract).

SECTION 31 2350

- b. Remove all sod, roots, and vegetation from the area in which the embankment is required and from the embankment material.
- c. The embankment shall be built of suitable material available from the project, in successive horizontal layers not exceeding 6 inches in compacted thickness.
- d. Add water or air-dry material as required for adequate compaction.
- e. The Contractor shall completely remove the upper 6" of material prior to scarifying and compacting the lower 6". At such time the lower 6" is at the specified density, the Contractor may proceed with building of embankment and compaction for the upper 6". Any method of subgrade preparation other than the complete removal of the top 6" of material will not be acceptable.

- 2. Any area not accessible to large equipment shall be compacted by hand or with smaller equipment.

E. Subgrade Preparation and Protection:

- 1. After the rough grading work has been completed, the entire graded area shall be smoothed and shaped to produce a finished subgrade in accordance with the elevations shown in the drawings or established by the Engineer.
- 2. The Contractor shall be responsible for maintaining the finished subgrade or base under the pavement in top condition until subsequent operations are performed.
- 3. The required moisture content of the subgrade base shall be maintained by light sprinkling immediately prior to surfacing. However, at no time shall enough water be added to soften the surface of the subgrade.
- 4. Areas in the subgrade, which are soft or otherwise contain unsuitable material shall be excavated and replaced with material approved by the Engineer. The replacement material will, if so directed by the Engineer, be a lean clay material capable of being compacted to 98% of Standard Proctor Density and paid for as Embankment Borrow.

F. Topsoil:

- 1. Topsoil shall be stripped, stockpiled and later spread over designated areas. When the topsoil cannot conveniently be stockpiled within the right-of-way, it shall be the Contractor's obligation to arrange for stockpile sites at his own expense. The stockpiles shall be shaped and smoothed to facilitate draining and to keep the area as neat as possible.

SECTION 31 2350

2. Topsoil stripping and stockpiling and finish grading shall be included in the lump sum price for "Topsoil".
3. Upon completion of the pavement work outside the roadway pavement limits, 6 inches of topsoil free from gravel, sticks and other foreign material shall be placed on all newly disturbed areas behind the curb or beyond the completed surfacing. The topsoil shall be finished graded ready for seeding. All costs associated with topsoil spreading and finishing grading shall be included in Excavation and Embankment.
4. Excess excavation and topsoil, if any, shall be stockpiled at the site, by this Contractor. Coordinate with the Owner the placement of the pile. Cost shall be incidental to Excavation and Embankment.
5. The final surface finish shall be one equal to a light harrowing so that the terraces will be suitable for seeding.
6. Finish grading of topsoil shall be included in the lump sum price for Excavation and Embankment.
7. Contractor shall furnish and install all topsoil borrow necessary for grading.

* * * END OF SECTION * * *

SECTION 31 2326

SOIL TESTING

PART 1 - GENERAL

1.01 SCOPE:

- A. The CONSTRUCTION AGREEMENT and other CONDITIONS of the Contract and the GENERAL REQUIREMENTS (Division 1) are hereby made part of this Section.
- B. The **Contractor** shall employ a testing laboratory for performing soil testing throughout the project.
- C. In-place density tests will be taken as directed below.
- D. The **Contractor** shall pay for the cost of all in-place density tests.

1.02 RELATED WORK SPECIFIED ELSEWHERE:

- A. Site Earthwork: Section 312350.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 LOCATION OF TESTS:

- A. The in-place densities shall be taken in the finished subgrade prior to the placement of surfacing in a 75' grid, in one-foot layers in the site embankment or trench backfill for sanitary sewer mains, water mains, storm sewers and electrical conduit.
- B. The in-place densities shall be performed by the independent testing firm certified by the State and locations shall be randomly selected. Test data shall be submitted to the Engineer throughout construction and will be required prior to project finalization.

* * * END OF SECTION * * *

CATEGORY IV

Appendix

- **Project Drawings**
- **Storm Water Management Plan**

DRAFT

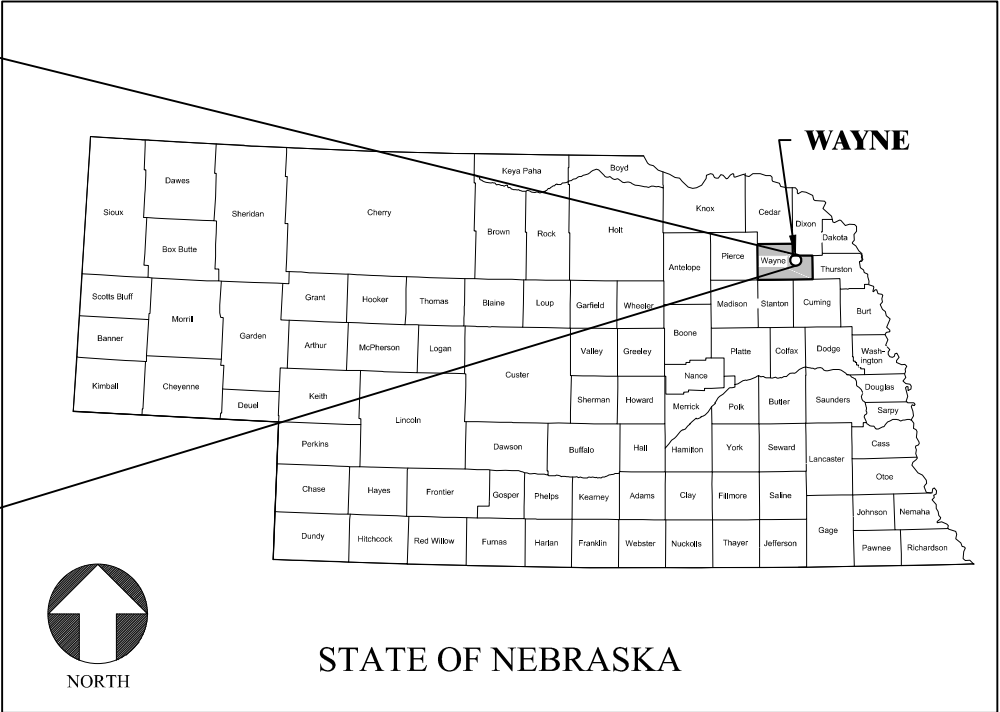
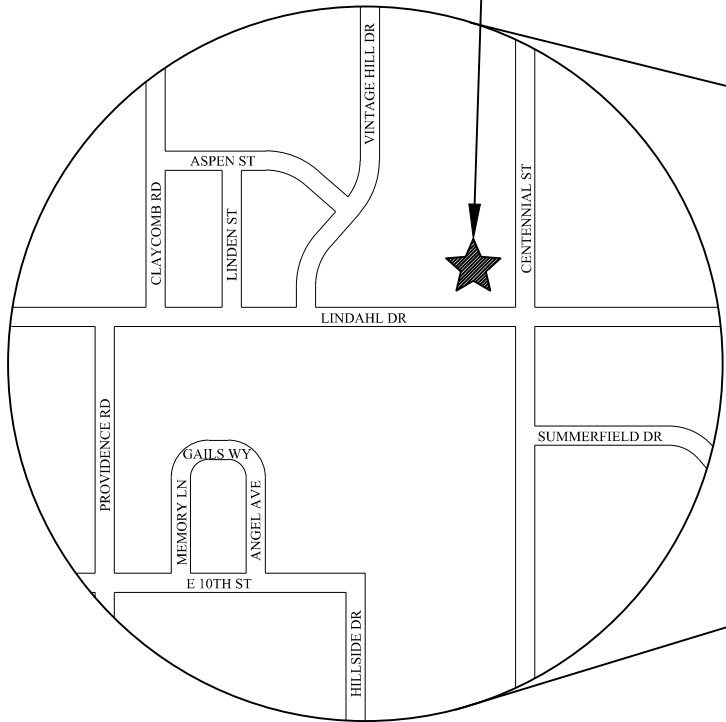
APPENDIX

1. Project Drawings:
 - D.01 Topographic Survey
 - D.02 Site Layout
 - D.03 Site Plan
 - D.04 Site Details
2. Storm Water Management and Pollution Prevention Plan (SWPPP) for Site Grading
3. Application for General Stormwater Permit for Construction Activity

DRAWINGS

SITE GRADING FOR NORTHEAST SUBSTATION CITY OF WAYNE WAYNE, NEBRASKA

WAYNE SUBSTATION
1402 Centennial St.
Wayne, NE 68787



DGR PROJECT NUMBERS: 412307

**ISSUED FOR
GRADING BIDS
01-27-2026**

LIST OF DRAWINGS

D.01	CIVIL SITE GRADING TOPOGRAPHIC SURVEY
D.02	CIVIL SITE PLAN
D.03	CIVIL ELEVATION PLAN
D.04	CIVIL SITE DETAIL



ROCK RAPIDS, IOWA
(712) 472-2531

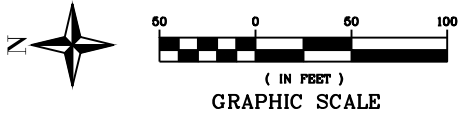
PRELIMINARY
NOT FOR CONSTRUCTION
1-27-2026

TOPOGRAPHIC SURVEY LEGEND

	E	UNDERGROUND ELECTRIC		BUILDING OUTLINE
	OHE	OVERHEAD ELECTRIC		LOT LINE
	ST	STORM SEWER LINE & STRUCTURES		EASEMENT LINE
	SA	SANITARY SEWER LINE & STRUCTURES		CURB AND GUTTER
	- - - - -	EDGE OF CONCRETE		UNDERGROUND TELEPHONE LINE
	X X X	FENCE		LANDSCAPING
	W	WATER LINE		EXISTING GROUND CONTOURS
	G	GAS LINE & STRUCTURES		EXISTING SIDEWALK OR TRAIL
	- - - - -	EDGE OF GRAVEL		

	SM	SANITARY MANHOLE		EM	ELECTRIC METER		WV	WATER VALVES		GM	GAS METER		TB	TELEPHONE BOX
	SI	STORM INTAKE		EB	ELECTRIC BOX		IV	IRRIGATION VALVES		GP	BOLLARD		SP	SIGN/SIGN POST
	DM	STORM MANHOLE		LP	LIGHT POLE		HY	HYDRANTS		FP	FLAG POLE		PC	PROPERTY CORNER
	PP	POWER POLE		GW	GUY WIRE		DT	DECIDUOUS TREE		CT	CONIFEROUS TREE		SB	SHRUB OR BUSH

- 1 Utilities and other potential obstacles (underground facilities) have been shown only to the extent that they were observed at the surface or were known by Others. The Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data. The Contractor shall have full responsibility for reviewing and checking all such information and data, locating all such facilities, coordination of the work with the owners of such underground facilities during construction, and the safety and protection of all such underground facilities.
- 2 Contractor shall be responsible for erosion control of the site during construction. NPDES General Permit No. 2 is necessary for this project (7.3 acres disturbed). Contractor shall apply for the permit and use general Best Management practices while performing work to avoid soil erosion from the site. Contractor shall inspect erosion control devices weekly and after all precipitation and repair any deficient areas. Contractor shall follow and amend the SWPPP as required for the duration of the project, costs shall be incidental to the project.
- 3 Existing surface contours (typ).
- 4 Install and maintain stabilized rock entrance.



Erosion Control Notes:

The contractor shall provide inlet protection at all times after pavement is removed and until final stabilization is achieved. The contractor will need to change the type of inlet protection to fit the work being performed. The details shown are to be used and determined by the place of construction. Inlet protection devices shall be maintained or replaced as needed or at the option of the engineer/owner. Manufactured alternatives approved and listed on NDOT's erosion control product acceptability list may be substituted.

When removing or maintaining inlet protection, care shall be taken so that the sediment trapped on the geotextile fabric does not fall into the inlet. any material falling into the inlet shall be removed immediately.

All erosion control devices shall be inspected weekly and after all weather events, non-complying equipment shall be fixed within the working day.

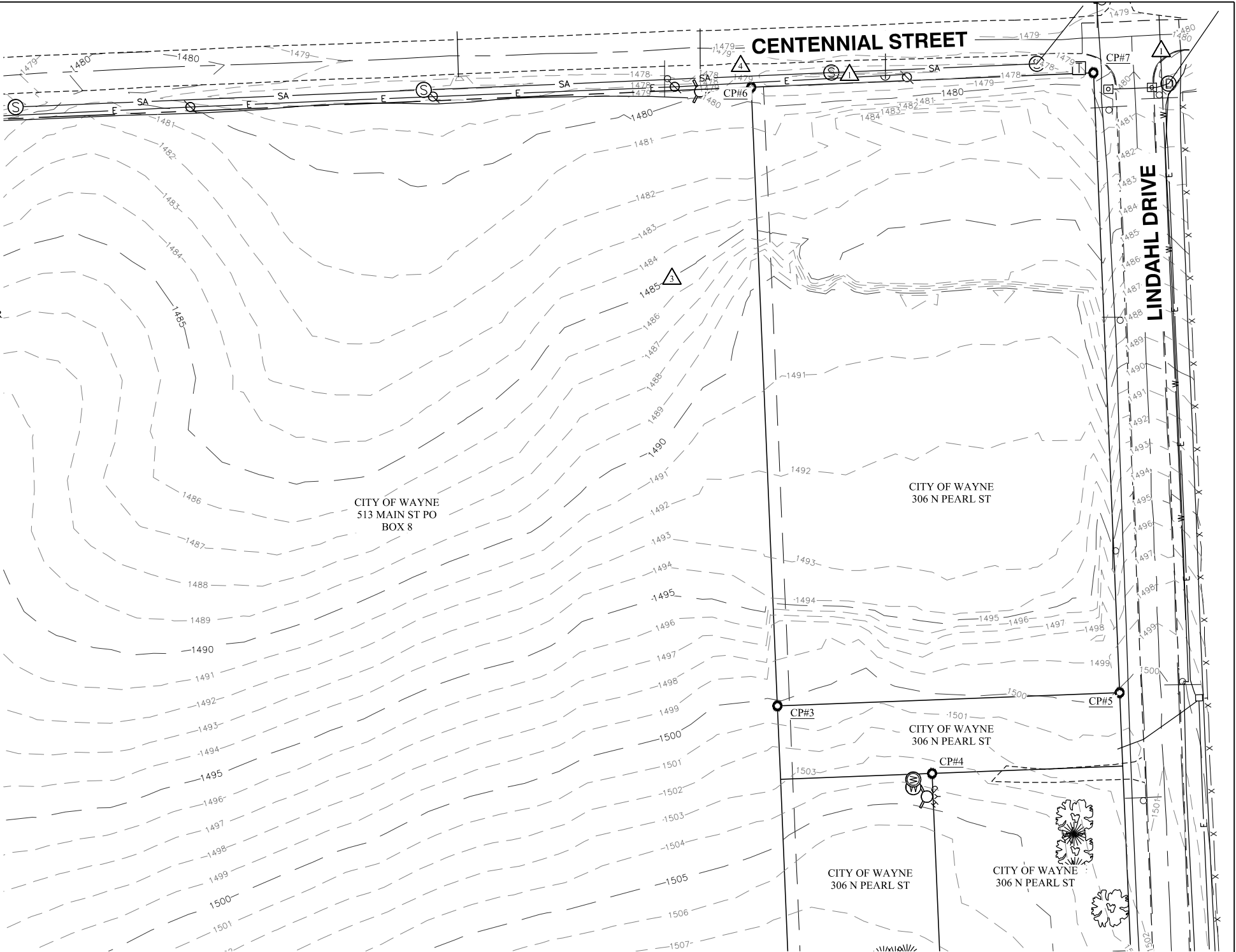
The contractor shall take steps to control soil erosion and fugitive dust during construction. If necessary, hay bales, check dams, sediment traps or additional silt fence (not indicated on the plans) shall be used to retain silt and prevent silt from entering the sewer system. This work shall be paid for as per pay items on the bid form.

The contractor shall construct erosion control prior to any grading on the project in order to prevent silt transport and soil tracking into public right-of-way. Contractor shall maintain and water haul roads to control fugitive dust.

Silt fence should be inspected weekly and after minor rain events to ensure that the device is functioning properly. Remove sediment from behind fence when the depth of sediment has built up to the height of the fence above grade. inspect the base of the fence to ensure that no gaps have developed and re-trench as necessary. Inspect fence posts to ensure that they are properly supporting the fence. Straighten, reset and add additional posts if necessary. If filter fabric is ripped, damaged or deteriorated, replace it in accordance with the original specifications & details.

The contractor shall comply with the storm water pollution prevention plan (SWPPP) in the project manual. The contractor shall make provisions to maintain drainage on all streets in and adjacent to the project throughout the construction period. SWPPP inspections by contractor.

Contractor shall have a person on call to respond to flooding that may occur during non-working hours. Contractor shall have pumping equipment on site in case of a large storm event. Contractor shall pump storm water off site if needed at no additional cost to the project. Contractor shall not pump water containing sediment off site. Make provisions for filtering water to be pumped. Contractor will be responsible for submitting and paying for the NDEE storm water permit and following its recommendations, incidental to the project.



GENERAL NOTES:

- BASIS OF BEARINGS FOR THIS DRAWING IS NEBRASKA NAD83, STATE PLANE, US SURVEY FOOT
- ALL ELEVATIONS SHOWN ON THIS SURVEY ARE NORTH AMERICAN VERTICAL DATUM OF 1988.
- THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

CONTROL POINTS
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E=2452213.2591
Z=1503.34

CP#4 FIP 5/8PRC-3550_SCHULTZ
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Z=1500.45

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PRELIMINARY
NOT FOR CONSTRUCTION



REV	DATE	DESCRIPTION
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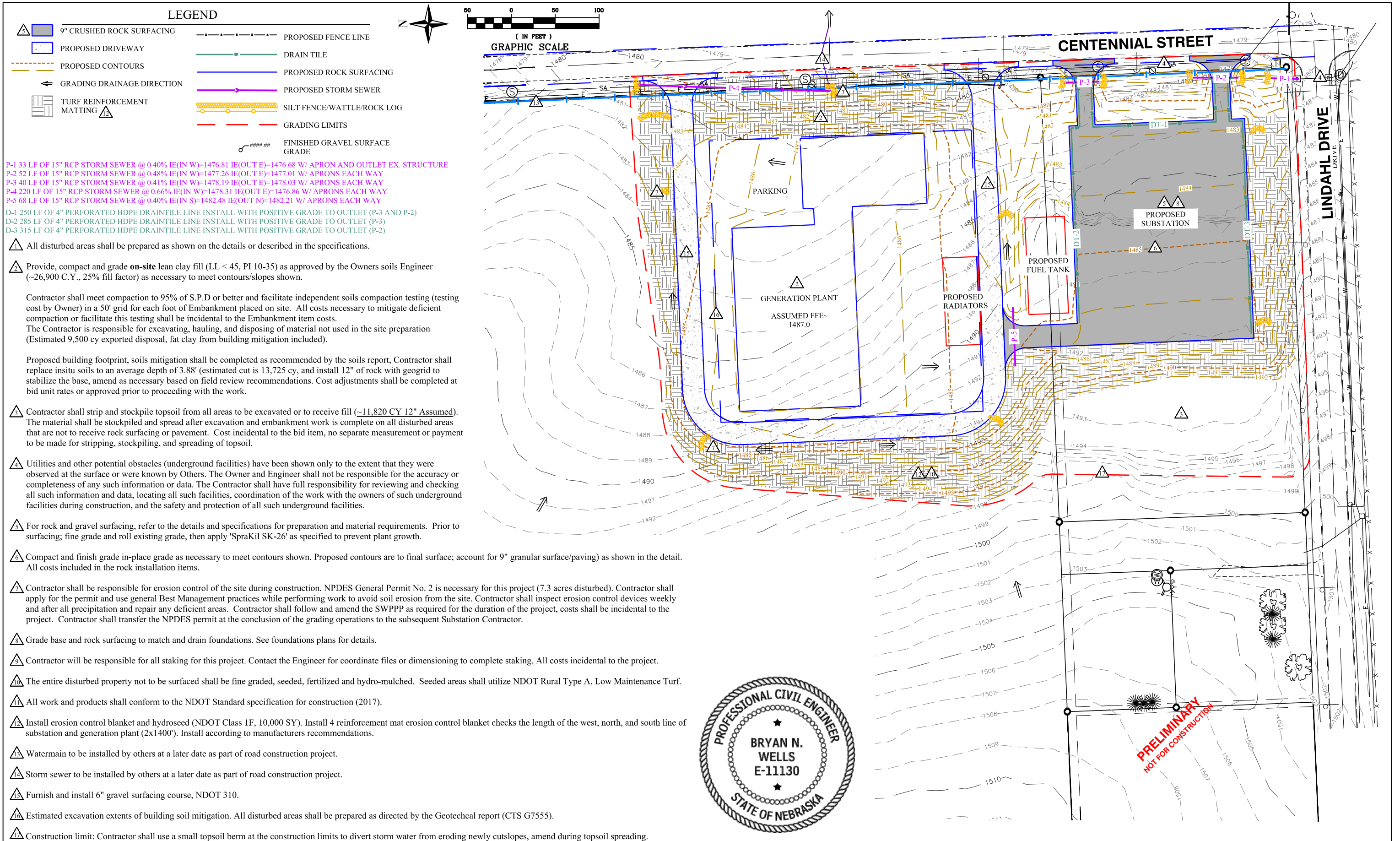


Project Manager: PAD
Designer: BNW/DLV
Project Number: 412307
Phone: (712) 472-2531

CITY OF WAYNE
WAYNE, NEBRASKA

NORTHEAST SUBSTATION
CIVIL SITE GRADING TOPOGRAPHIC SURVEY

S H E E T	D.01

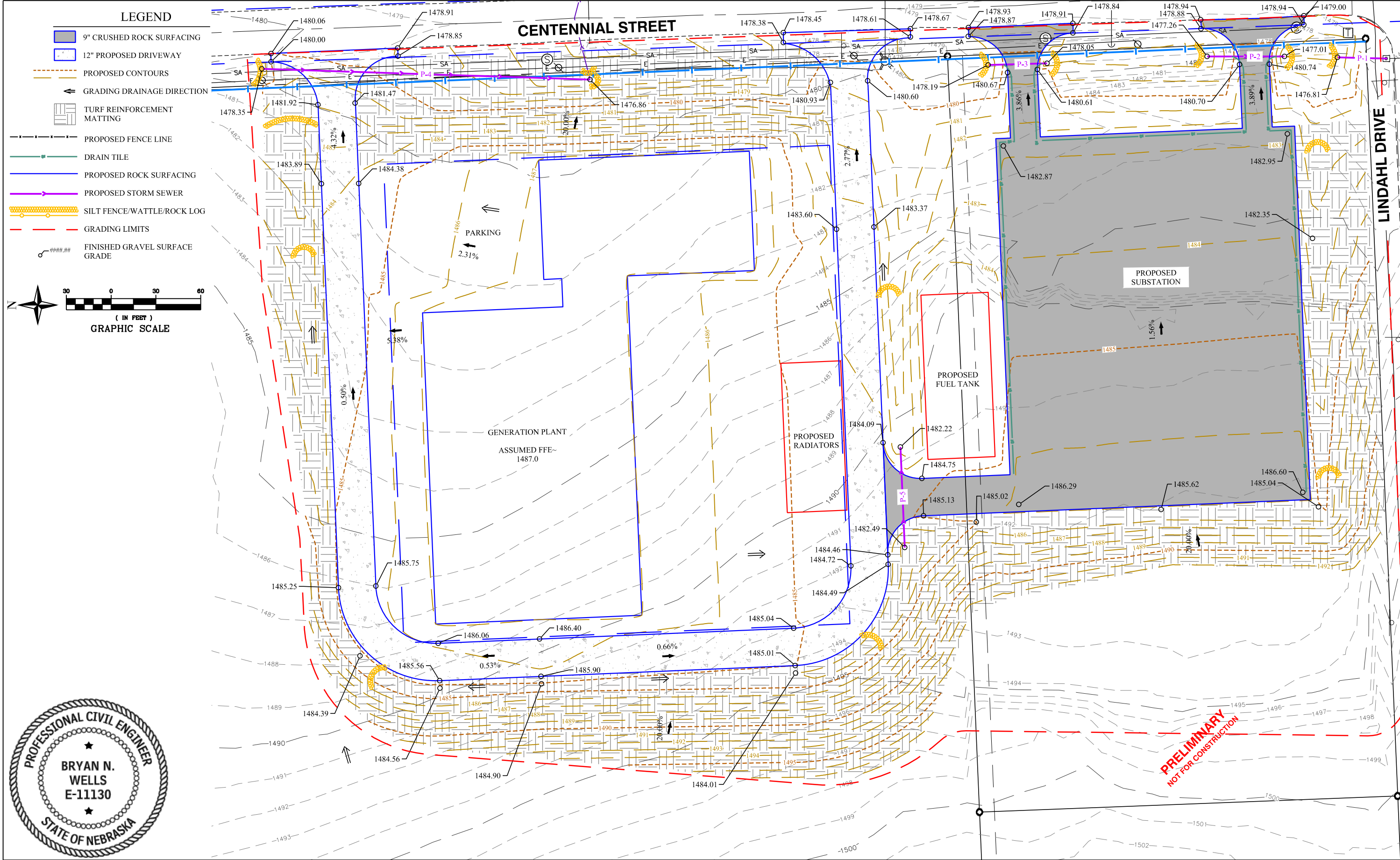


REV	DATE	DESCRIPTION
0	1-29-2026	ISSUED FOR OWNER REVIEW

Project Manager:	PAD
Designer:	BNW/DLV
Project Number:	412307
Phone:	(712) 472-2531

NORTHEAST SUBSTATION CIVIL SITE PLAN		S H E E T

D.02



REV	DATE	DESCRIPTION
0	1-29-2026	ISSUED FOR OWNER REVIEW



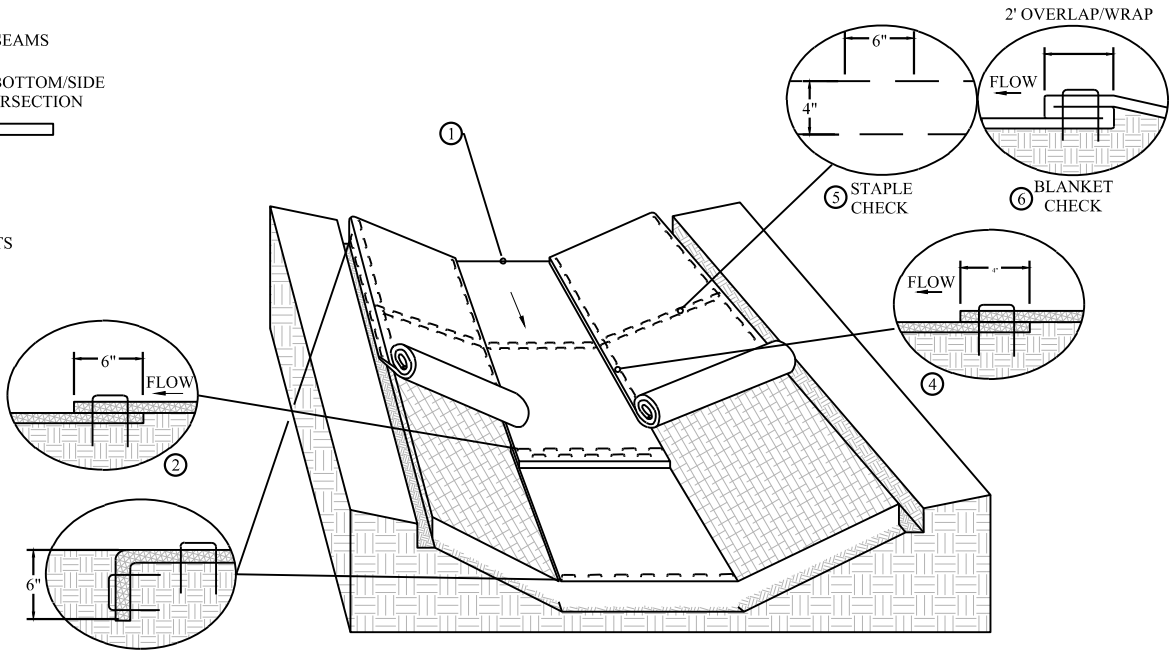
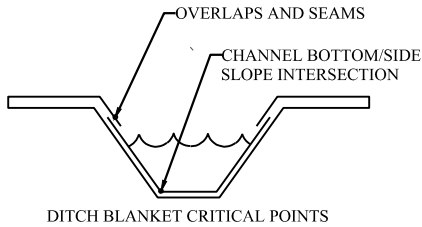
Project Manager: PAD
Designer: BNW/DLV
Project Number: 412307
Phone: (712) 472-2531

CITY OF WAYNE
WAYNE, NEBRASKA

NORTHEAST SUBSTATION
CIVIL ELEVATION PLAN

P:\041123\07\CIVIL\DWG\412307 CIVIL DESIGN OPTION 6.DWG

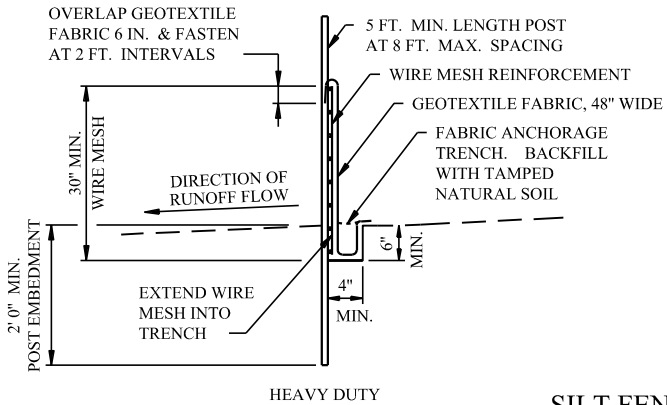
- DITCH BLANKET STAPLE DETAIL NOTES
- 1 USE CHECK SLOT DETAIL (NO ALTERNATES).
 - 2 PLACE DOUBLE ROW OF STAPLES STAGGERED 4" APART AND 4" ON CENTER.
 - 3 USE 6" X 6" TRENCH TO PLACE BLANKET. PLACE SINGLE ROW OF STAPLES ON TOP AND TRENCH SIDES AT 12" SPACING BACKFILL TRENCH WITH SOIL AND TAMP.
 - 4 PLACE SINGLE ROW OF STAPLES AT 12" SPACING.
 - 5 USE STAPLE CHECK FOR CHANNEL SLOPES LESS THAN 2.5% GRADE AT 100 FOOT INTERVALS. PLACE DOUBLE ROW OF STAPLES STAGGERED 4" APART AND AT 4" SPACING.
 - 6 USE BLANKET CHECKS FOR THE FOLLOWING SLOPES:
2.5%-3% 100 FT INTERVALS
3%-5% 50 FT INTERVALS
5%-7% 25 FT INTERVALS
 - 7 CRITICAL POINTS SHALL BE SECURED WITH PROPER STAPLES PATTERNS.



DITCH BLANKET STAPLE DETAIL

TEMPORARY EROSION CONTROL FABRIC

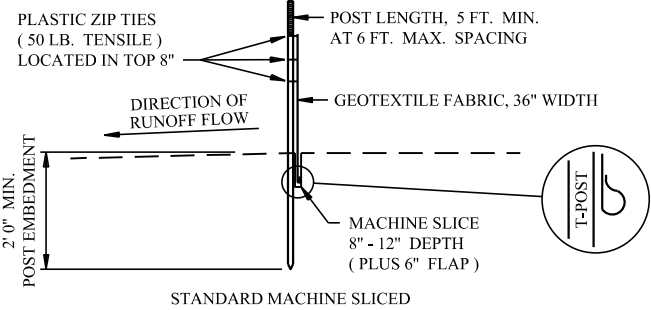
NOT TO SCALE



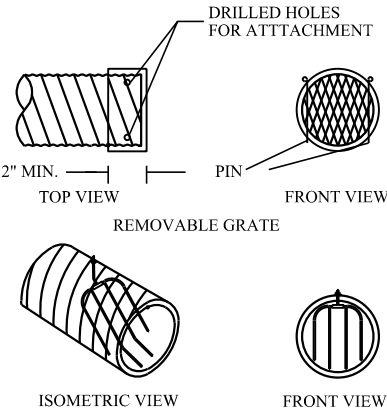
HEAVY DUTY

SILT FENCE

NOT TO SCALE



STANDARD MACHINE SLICED

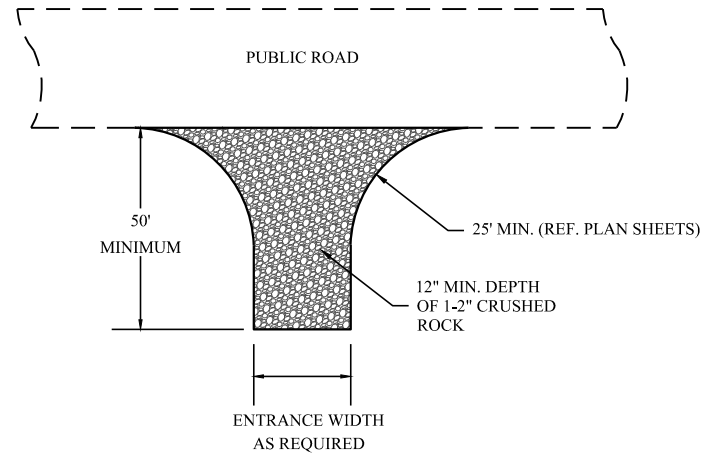


RODENT GUARD DETAILS

SUBDRAIN OUTLET

NOT TO SCALE

- 1 FILL ANNULAR SPACE WITH NON-SHRINK GROUT.
- 2 OUTLETS THROUGH INTAKE WALL TO BE CMP; CORRUGATED, DOUBLE-WALLED HDPE; OR PVC.
- 3 EXTEND OUTLET PIPE INTO INTAKE AS REQUIRED TO INSTALL REMOVABLE RODENT GUARD.
- 4 PROVIDE A MINIMUM 1 FOOT RADIUS FOR ALL BENDS OR USE TWO 45° FITTINGS
- 5 PROVIDE A 3 INCH MINIMUM DROP IN ELEVATION BETWEEN LONGITUDINAL SUBDRAIN AND OUTLET.
- 6 6" CMP OUTLET FOR A 4" HDPE PERFORATED DRAIN.

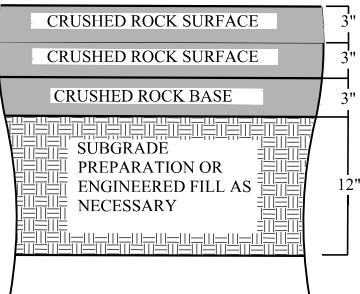


TRACKING CONTROL

NOT TO SCALE

SUBSTATION CONTRACTOR (BY OTHERS)
SUBSTATION CONTRACTOR (BY OTHERS)
GRADING CONTRACTOR: 100% OF STANDARD PROCTOR DENSITY (S.P.D.) GRAVEL SURFACE COURSE (NDOT 310)
98% OF S.P.D. FOR INPLACE COMPACTION, 100% FOR ENGINEERED FILL

95% OF S.P.D. FOR UTILITY TRENCHES

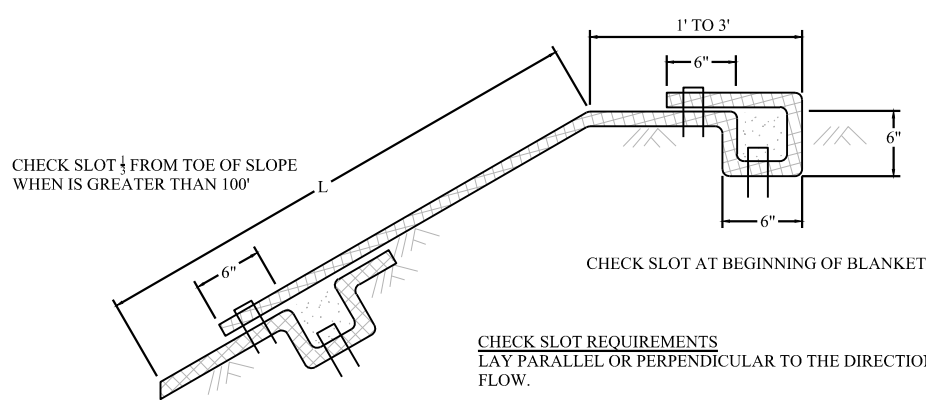


CRUSHED STONE SURFACING SHALL CONFORM TO THE GRADATIONS LISTED IN THE SPECIFICATIONS

INSTALL CRUSHED STONE SURFACING WITHIN FENCING AND 5' SURROUNDING THE FENCING

TYPICAL ROCK SURFACING SECTION

NOT TO SCALE



CHECK SLOT REQUIREMENTS

DIG 6 INCH BY 6 INCH TRENCH. INSERT BLANKET INTO ENTIRE TRENCH PERIMETER. PLACE SINGLE ROW STAPLES AT 3' SPACING ALONG THE BOTTOM OF THE TRENCH. BACKFILL TRENCH WITH SOIL AND TAMP. PLACE SINGLE ROW STAPLES AT 3' SPACING ON OVERLAP.

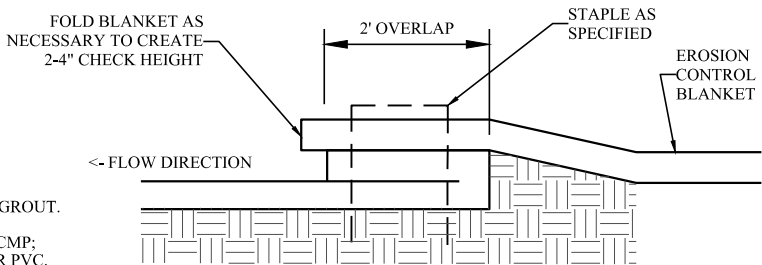
CHECK SLOT REQUIREMENTS

LAY PARALLEL OR PERPENDICULAR TO THE DIRECTION OF WATER FLOW.

OVERLAP ADJACENT STRIP EDGES A MINIMUM OF 4 INCHES.

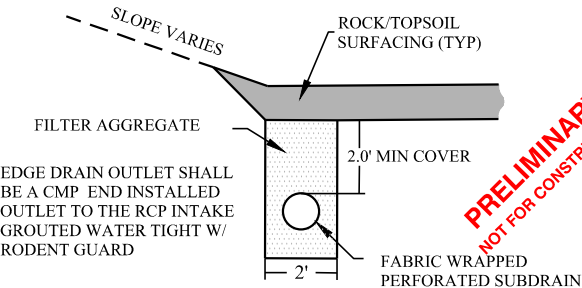
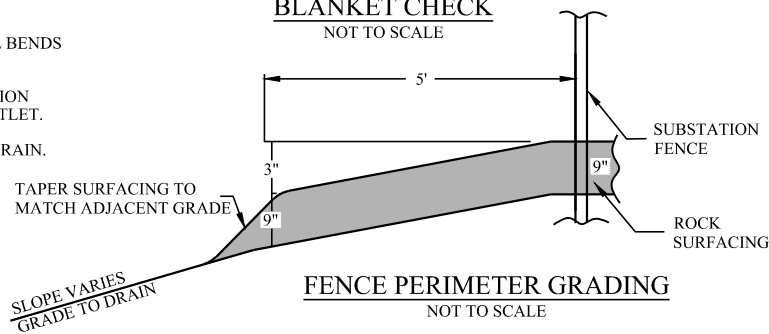
OVERLAP BLANKET 6" (MIN.) AT EACH END. OVERLAP BOTTOM END OF UPPER OVER TOP END OF LOWER BLANKET. STAPLE ALONG OVERLAP EVERY 1.5'.

THE UPPERMOST BLANKET OF ALL SLOPE APPLICATIONS MUST START IN A CHECK SLOT. IF SLOPE LENGTH (L) IS 100' OR GREATER. INSERT BLANKET INTO A CHECK SLOT 1/4 FROM THE BOTTOM OF THE SLOPE.



BLANKET CHECK

NOT TO SCALE



4" PERFORATED SUBDRAIN

NOT TO SCALE



REV	DATE	DESCRIPTION
0	1-29-2026	ISSUED FOR OWNER REVIEW



Project Manager: PAD
Designer: BNW/DLV
Project Number: 412307
Phone: (712) 472-2531

CITY OF WAYNE
WAYNE, NEBRASKA

NORTHEAST SUBSTATION
CIVIL SITE DETAILS

STORM WATER MANAGEMENT AND POLLUTION PREVENTION PLAN
FOR

Northeast Substation

Wayne, Nebraska
Project No. 412307

February 2026

Prepared by:
DGR Engineering
1302 South Union Street
P.O. Box 511
Rock Rapids, IA 51246
(712) 472-2531

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PART 1: SITE DESCRIPTION/LOCATION MAP

Project Name	Northeast Substation Site Grading
Project Type	Northeast Substation
Project Location (address, Section, TWP, R)	1402 Centennial Road NE 1/4 of Sec. 7 T26N R4W Wayne, NE 68787
Owner	City of Wayne
Representative	Clayton Dredge, Electric Superintendent
Owner Address/Phone	513 Main Street Wayne, NE 68787 (402) 375-1733
Site Topographical Survey SWPPP Design Engineer Prepared by:	Dan Van Schepen DGR Engineering 1302 South Union Street Rock Rapids, Iowa 51246
Site Area	9.2 Acres
Disturbed Area	7.3 Acres
Final Runoff Curve Number	Existing: 81 Proposed 84
Soil type	Topsoil, clay lawn
Receiving Waters	Natural drainageway eventually to South Logan Creek (2,320')
Description of Proposed Activity	Site development for a Substation
Expected Sequence of Major Construction Activity (Subject to change: any deviations to the plan shall be noted on this plan)	A. Temporary Erosion & Sediment Controls B. Site Grading & utilities C. Site Surfacing D. Final Stabilization E. Building Foundation F. Building Walls and Interior G. Remove Temporary Sediment Control Measures

LOCATION MAP:

The enclosed project plans shall be a part of this document.

PART 2: CONTROLS

CONTROL MEASURE MASTER INDEX

Use this index to track the status of all erosion & sediment control BMP's on your site as they relate to current construction phase. Note the corresponding number of the BMP on the erosion control plan (ie B3) and record installation and removal dates in the table. BMP's will not necessarily be removed during the same phase as their installation. Site conditions should dictate installation and removal.

NUMBER	CONTROL	DATE INSTALLED	DATE REMOVED

PHASE A - INITIAL SEDIMENT CONTROLS			
A1	Stabilized Construction Entrance		
A2	Silt Fence		
A3			
A4			
A5			
A6			
A7			

PHASE B – SITE GRADING & UTILITIES			
B1	Inlet Protection - Rock/compost tubes		
B2			
B3			
B4			
B5			

PHASE C - FINAL STABILIZATION			
C1	Site Surfacing & Paving		
C2	Seeding & Mulching		
C3			
C4			
C5			
C6			

Erosion and Sediment Controls

Measures to be used for controlling erosion and sediment throughout the construction project include stabilization measures for limiting soil erosion from disturbed areas and structural controls to divert runoff and remove sediment. Contractor/subcontractor is responsible for the implementation and management of control measures specific to this site. As work progresses, field investigation may indicate additional erosion control measures may be required as determined by the Contractor, Owner, Engineer, City or other governmentally regulated agencies.

1. Stabilization

- a. Preserve existing vegetation in areas not disturbed during construction.
- b. Undisturbed areas will utilize existing vegetation as a natural buffer zone to increase infiltration and sediment deposition by reducing runoff velocity.
- c. The total area of soil disturbed by construction operations at any time shall be held to a minimum.
- d. Soil Compaction - compaction of soils in area to be seeded or sodded will be kept to a minimum to increase infiltration of storm water runoff into the groundwater, reducing the amount of runoff.
- e. Temporary stabilization - areas where construction activity is not planned to occur for at least 14 days will be stabilized within 14 days of ceasing construction activities in that area by one or more of the following temporary erosion control methods:
 1. Topsoil stockpiles and disturbed portions of the site will be stabilized with temporary seed and mulch.
 2. Areas of the site to be paved will be temporarily stabilized with geotextile and stone sub-base until pavement can be installed.
 3. Frequent watering during construction in dry weather shall minimize wind erosion from exposed soil.
- f. Permanent Stabilization - areas where construction activity has permanently ended will be stabilized within 14 days of ceasing construction activities in that area by one or more of the following permanent erosion control measures:
 1. Sodding or permanent seeding/mulch and mulch in unpaved areas where final grading is complete.
- g. Dust Control - Mulch or surface watering will be utilized to control wind erosion of susceptible soils during and/or immediately after mass site grading operations.

2. Structural Controls

- a. At all areas where runoff can move offsite, silt fence, filter sock or approved equal will be installed along the perimeter of the project downstream of soil disturbing activities and storm water discharge points prior to site clearing and grading operations as required and/or shown on the plans.
- b. Provide silt fence, filter sock, or equivalent measures for all sideslopes and downstream boundaries of the disturbed area as required and/or shown on the plans.
- c. Inlet protection devices will be installed in all storm water intakes to protect storm sewers from sediment immediately after construction of the inlet.

- d. Additional erosion control measures may be required on embankments, stockpiles, and other areas to ensure runoff control.

B. Storm Water Management

Post construction storm water drainage will be facilitated by roof drains drainage swales for the developed areas. Runoff will be directed to onsite storm water management controls.

Measures implemented to control pollution of storm water after construction is complete include the following:

1. Undeveloped areas of the site will be graded at the slopes indicated and have permanent seeding and/or landscaping designed to reduce runoff velocities and increase infiltration.
2. Portions of the site will remain undisturbed and in its original vegetative state, limiting the amount of exposed soil and providing a vegetative buffer zone that will reduce runoff velocities and increase infiltration.
3. The creation of impervious area will be handled by a permanent filtration feature bound by driveway and controlled by the temporary erosion control and eventually permanent turf reinforcement mats.

C. Other Controls

Measures for controlling other sources of potential pollution that may exist on the construction site. During the course of construction, it is possible that situations may arise where unknown material will be encountered. When such situations occur, they will be handled according to all applicable federal, state, and local regulations in effect at the time.

1. Waste Materials

Disposal of unused construction materials and construction material wastes shall comply with applicable state and local waste disposal, sanitary sewer, or septic system regulations. In the event of a conflict with other governmental laws, rules and regulations, the more restrictive laws, rules, or regulations shall apply.

2. Hazardous Waste.

- a. Hazardous waste materials will be disposed of in accordance with applicable local, State and/or Federal regulations.
- b. Equipment refueling and maintenance operations will be carried out in such a manner so as to prevent any spills and contamination to the soil and ground water.
- c. Potentially hazardous materials will be used with great care to prevent spillage in any volume.

3. Vehicle Tracking

- a. Stabilized construction entrances and/or vehicle washing racks will be installed at all site access points to reduce vehicle tracking of sediment offsite.
- b. Paved streets adjacent to the site will be inspected daily and cleaned as necessary to remove any excess mud, dirt, or rock tracked from the site.
- c. Dump trucks hauling material from the site will be properly covered with a tarpaulin.
- d. Dust control measures will be used as necessary.

4. Sanitary Waste

A portable restroom facility may be located onsite at the contractor's discretion. Wastes will be collected and disposed of in complete compliance with local, State and Federal regulations. This facility will be located in an area where contact with storm water discharge is minimized.

D. Non-storm Water Discharges

1. Expected sources of non-storm water discharges from the site during construction may include:
 - a. Potable water sources, including water line flushing, irrigations drainage and firefighting activities.
 - b. Pavement/building wash waters where no spills or leaks of toxic or hazardous materials have occurred and excluding detergents.
 - c. Uncontaminated groundwater from de-watering excavations.
 - d. Natural springs, wetland, water sources.
 - e. Foundation or footing drains where flows have not been exposed to solvents.
2. Non-storm water flows will be discharged to a stabilized area or directed to a sediment retention device or other appropriate control measure prior to discharging off-site.

E. State and Local Requirements

1. The storm water pollution prevention plan reflects the State of Nebraska requirements for storm water management and erosion and sediment control as established in Code of Nebraska, NDEE Requirements pertaining to Erosion Control Plans.
2. Code Compliance: The contractor shall comply with the soil erosion control requirements of the Nebraska Code, the NDEE permit, and all local ordinances.

F. Sequence of Installation

1. Install perimeter silt fence, silt berms, & inlet protection where possible.
2. Grading & Installation of utilities
3. Construction of surfacing & paving

4. Complete topsoil, fine grading, permanent stabilization by seed/mulch, sod, or landscaping of all disturbed areas.
5. Building construction
6. Remove temporary sediment control measures after permanent seeding & landscaping is 70% established.

PART 3: CONSTRUCTION & IMPLEMENTATION

PROJECTED CONSTRUCTION SCHEDULE / CONSTRUCTION PROGRESS

Phase A - Initial Sediment Controls		

Initial control measure installation (Construction entrances, perimeter silt fence)			
Anticipated Start Date		Anticipated End Date	
Actual Start Date		Actual End Date	

Phase B – Grading & Utilities			
Anticipated Start Date		Anticipated End Date	
Actual Start Date		Actual End Date	

Phase C - Paving			
Anticipated Start Date		Anticipated End Date	
Actual Start Date		Actual End Date	

Phase D - Final Stabilization		

Final Stabilization			
Anticipated Start Date		Anticipated End Date	
Actual Start Date		Actual End Date	

A. Maintenance

1. All documents related to the storm water discharge permit shall be kept on site at all times and must be presented to the NDEE or EPA upon request. This includes but is not limited to the Storm Water Pollution Prevention Plan, Notice of Intent, Proof of Publication, and project inspection diary.
2. This pollution prevention plan shall be revised as construction progresses to reflect current ownership, responsibilities, operations, and findings.
 - a. The plan will be revised due to any deficiencies in the plan or changes in conditions noted during an inspection, and the contractor will implement any and all revisions as soon as practical but no later than seven days after the inspection.
 - b. Maintain record of major construction operations start and ending dates and operators responsible for the various phases.
 - c. The plan will be modified within 7 calendar days of a hazardous condition describing the release, the date of release, and the circumstances leading to the release. Steps to prevent the reoccurrence of such releases will be identified in a plan revision and implemented.
3. Maintain all temporary and permanent erosion control measures in good working order by cleaning, repairing, replacement and sediment removal throughout the permit period. Any necessary repairs will be initiated within 24 hours of report.
 - a. Built up sediment will be removed from sediment barrier (silt fence or filter sock) or the silt barrier replaced when it has reached 1/3 the height of the barrier.
 - b. Accumulation of earth, silt or debris on adjoining properties or streets will be minimized. Remove any accumulation of earth, silt or debris immediately and take remedial actions for prevention.
 - c. Minor spill of potentially hazardous materials will be cleaned up by removing and disposing of contaminated soils properly. Major spills shall be reported in accordance with the code of Nebraska with clean-up procedures dependent on the severity of the spill.

B. Inspections

1. The contractor will be responsible for selecting a “qualified” inspector to conduct the inspections. “Qualified” is defined as a person knowledgeable in the principles and practices of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact storm water quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the construction activity.
2. The project area and control devices will be inspected by the personnel assigned by the contractor every 7 calendar days and within 24 hours after each rain event of 1/2" or greater or heavy snow melt. The findings and any actions taken as a result of this inspection shall be recorded in the project diary with a copy submitted weekly to the owner or owner's representative during the project.
 - a. Inspect silt fence for depth of sediment, tears, fabric securely attached to posts, posts firmly in the ground, fabric firmly in the ground, and signs of undermining.
 - b. Inspect filter socks for depth of sediment, tears, posts firmly in ground, firm contact between sock and ground, and signs of flow under the sock.

- c. Inspect inlet protection devices for level of sediment, bypassing of flows, and ensure that overflow device is not plugged.
- d. Inspect storm outlets for signs of sediment from the site and erosion at the outlet.
- e. Inspect adjoining property for signs of sediment from site.
- f. Inspect construction entrance for sediment accumulation.
- g. Inspect street for track-out.
- h. Inspect seeding for bare spots, washouts and healthy growth.
- i. Inspect concrete washout area for depth of accumulated material, evidence of flows leaving the area and diversion of surface runoff away from the washout area.

C. Material Management

Site sources of pollution generated as a result of this work related to silts and sediment which may be transported as a result of a storm event are included as part of this SWPPP. However, this SWPPP provides conveyances for other (non-project related) operations. These other operations have storm water runoff, the regulation of which is beyond the control of this SWPPP.

1. Materials or substances expected to be present onsite during construction:

- a. Concrete
- b. Detergents
- c. Paint
- d. Tar
- e. Soil stabilization additives
- f. Fertilizers
- g. Petroleum based additives
- h. Cleaning solvents
- i. Wood
- j. Solids and construction wastes
- k. Pesticides
- l. Fuel
- m. Curing compounds

(Contractor shall list additional materials not shown)

- o.
- p.
- q.
- r.

2. Material Management Practices - the following is a list of practices that will be used onsite to minimize the risk of spills or other accidental exposure of materials and substances to storm water runoff.

- a. Good Housekeeping
 - i. An effort will be made to store onsite only enough products required to complete the job.
 - ii. All materials stored onsite will be kept in a neat, orderly manner and in their appropriate containers. If possible, products shall be kept under a roof or other enclosure.

- iii. Materials will be kept in their original containers with the original manufacturer's label.
- iv. Substances will not be mixed with one another unless recommended by the manufacturer.
- v. Whenever possible, all of a product will be used up before disposing of the container.
- vi. Manufacturer's recommendations for proper use and disposal will be followed.
- vii. The job site superintendent will be responsible for daily inspections to ensure proper use and disposal of materials.

b. Hazardous Products

- i. Products will be kept in their original containers with the original manufacturer's label.
- ii. The original labels and material safety data will be kept for each of the materials as they contain important product information.
- iii. Disposal of any excess product will be done in a manner that follows all manufacturers', federal, local and state recommended methods for proper disposal.

(Contractor shall list additional practices, as appropriate, used to prevent hazardous material discharge).

- iv.
- v.
- vi.
- vii.

Product Specific Practices - the following is a list of potential sources of pollution and specific practices to reduce pollutant discharges from materials or sources expected to be present during construction.

c. Petroleum Storage Tanks

- i. All onsite vehicles shall be inspected and monitored for leaks and receive preventative maintenance to reduce the chance of leakage.
- ii. Steps will be taken by the contractor to eliminate contamination from storage tanks from entering the soil. Any petroleum storage tanks kept onsite will be located with an impervious surface between the tank and the ground.

d. Fertilizers - shall be applied in minimal amounts as recommended by the manufacturer. It shall be worked into the soil as to minimize the contact with storm water discharge.

e. Paints, paint solvents and cleaning solvents - Excess paints and solvents shall not be discharged into the storm sewer system. The contractor shall refer to the manufacturer's instructions and federal regulations on the proper disposal techniques.

f. Concrete wastes

- i. Concrete trucks will be allowed to washout or discharge excess concrete only in specifically designated areas which have been prepared to minimize contact between the concrete and storm water discharge from the site.
- ii. The hardened product from the concrete washout areas will be disposed of as other non-hazardous waste materials or may be broken up and used on the site for other appropriate uses.

- g. Solid and construction wastes - All trash and construction debris shall be deposited into a dumpster that will be emptied as necessary. No construction waste materials will be buried on site. The dumpsters must be put in a location where contact with storm water discharge is minimized.

(Contractor shall list additional potential sources of pollution and practices to reduce pollutant discharge.)

- h.
- i.
- j.

3. Hazardous Substance Spill Prevention and Response

- a. The contractor is responsible for training all personnel in the proper handling and cleanup of spilled materials. No spilled hazardous materials or waste will be allowed to come into contact with storm water discharges. If contact does occur, the storm water discharge will be contained on site until appropriate measures in compliance with all Federal, state, and local regulations are followed to dispose of the hazardous substance.
- b. In addition to Good Housekeeping and material management practices, the following practices shall be done to minimize the potential for hazardous materials spills and to reduce the risk of the spill coming in contact with storm water.
 - i. Manufacturer's recommended methods for spill cleanup will be clearly posted, and site personnel will be trained regarding these procedures and the location of the information and cleanup supplies.
 - ii. Material and equipment necessary for spill control, containment and cleanup will be provided onsite in a material storage area. Equipment and materials will include but not be limited to brooms, dust pans, mops, rags, gloves, goggles, kitty litter, sand, sawdust and plastic and meal trash containers.
- c. In the event of a spill, the following procedures will be followed:
 - i. All spills will be cleaned up immediately following discovery.
 - ii. The spill area will be kept well-ventilated, and personnel will wear appropriate protective clothing to prevent injury from contact with the hazardous substance.
 - iii. Spills of toxic or hazardous material will be reported to the appropriate state or local government agency and to the project manager and engineer, regardless of the size of the spill.
- d. In the event the construction site has a release of a hazardous substance of oil in an amount which exceeds a reportable quantity (RQ) as defined at 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, then the permittee shall:
 - i. Person in charge of the site at the time of the spill shall call the EPA National Response Center to report the spill (800-424-8802, or 202-426-2675).
 - ii. Modify the Pollution Prevention Plan accordingly within 14 days of the spill, including the items mentioned below.
 - iii. Within 7 days of the release, submit a written description of the release including: a description of the release, type of material, estimated amount of spill, date of release, explanation of why the spill happened, and a description of the steps taken to prevent and control future releases.

PART 4: FINAL STABILIZATION/DISCONTINUATION

A. Final Stabilization/Discontinuation

1. The storm water discharge from a construction activity is no longer considered to be a discharge subject to the storm water permit requirements when final stabilization has been reached and temporary erosion and sediment controls have been or will be removed. A permittee must submit a Notice of Termination (NOT) to inform the NDEE that storm water discharge for the site will no longer need to be covered by the general permit.
2. “Final Stabilization” - the point at which all soil disturbing activities are complete, and a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures have been employed.
3. Notice of Discontinuation should be mailed to the following address:

NDEE
245 Fallbrook Blvd
Lincoln, NE 68521
4. All plans, inspection reports and other related documents must be retained for a period of three years after project completion. The contractor shall retain a record copy and provide the original documents to the owner upon issuance of the NOT.

PART 5: CERTIFICATION

A. Storm Water Pollution Prevention Plan Certification

1. This project is subject to section 402(b) of the Clean Water Act and Nebraska Statutes (projects disturbing one or more total acres) and requires inclusion in the National Pollutant Discharge Elimination System (NPDES) General Permit No. 2 of individual NPDES Permit for storm water discharge associated with industrial activity for construction activities.
2. The Owner and prime contractor must sign the following certification statements. By doing so, the prime contractor becomes co-permittee with the owner and other co-permittee contractors. The prime contractor must identify which contracting entity will be responsible for each portion of the pollution prevention plan and maintain the site in compliance with the plan and NPDES Permit. The certification must be signed in accordance with the signatory requirements found in the general permit: i.e., principal executive officer, vice president, general partner, proprietor, elected official, and will be incorporated into the pollution prevention plan.
3. All subcontractors, including short-term contractors and subcontractors must sign the appropriate certification statement before conducting any work at the site. The Certification must be signed in accordance with the signatory requirements found in the general permit: i.e., principal executive officer, vice president, general partner, proprietor, elected official, and will be incorporated into the pollution prevention plan.
4. Upon signing the certification, the contractor or subcontractor becomes a co-permittee with the owner and other co-permittee contractors. In signing the plan, the authorizing representative certifies that the information is true and assumes liability for the plan and its implementation. Note that Section 309 of the Clean Water Act provides for significant penalties where information is false or the permittee violates, either knowingly or negligently, the permit requirements.

Owner's Certification

for

NPDES General Permit No. 2 "Storm Water Discharge
Associated with Industrial Activity for Construction Activities"

Project: Northeast Substation
Location NE 1/4 of Sec. 7 T26N-R4W
Wayne County, NE

I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site as part of this certification. Further, by my signature, I understand that I am becoming a co-permittee, along with the owner(s) and other contractors and subcontractors signing such certifications, to the NDEE NPDES General Permit No. 2 for "Storm Water Discharge Associated with Industrial Activity for Construction Activities" at the identified site. As a co-permittee, I understand that I, and my company, are legally required under the Clean Water Act and the Code of Nebraska, to ensure compliance with the terms and conditions of the storm water pollution prevention plan developed under this NPDES permit and the terms of this NPDES permit.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature _____
Printed Name Clayton Dredge
Title Electric Superintendent
Company City of Wayne, NE
Address 513 Main Street
Wayne, NE 68787
Telephone (402) 375-1733
Date of Certification _____

Contractor's Certification

for

NPDES General Permit No. 2 "Storm Water Discharge
Associated with Industrial Activity for Construction Activities"

Project: Northeast Substation

Location NE 1/4 of Sec. 7 T26N-R4W

Wayne County, NE

I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site as part of this certification. Further, by my signature, I understand that I am becoming a co-permittee, along with the owner(s) and other contractors and subcontractors signing such certifications, to the NDEE NPDES General Permit No. 2 for "Storm Water Discharge Associated with Industrial Activity for Construction Activities" at the identified site. As a co-permittee, I understand that I, and my company, are legally required under the Clean Water Act and the Code of Nebraska, to ensure compliance with the terms and conditions of the storm water pollution prevention plan developed under this NPDES permit and the terms of this NPDES permit.

Signature

Printed Name

Title

Company

Address

Telephone

Date of Certification

PART 6: STANDARD PERMIT CONDITIONS

A. Duty to Comply

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Code of Nebraska and the Clean Water Act and is grounds for enforcement action; for termination of coverage under this general permit; or, for denial of a request for coverage under a reissued general permit.
2. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act (CWA) for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

B. Continuation of the Expired General Permit. This permit expires on March 31, 2027. An expired general permit continues in force until replaced by adoption of a new general permit.

C. Need to Halt or Reduce Activity Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Duty to Provide Information. The permittee shall furnish to the Department, within three hours, any information which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department upon request copies of records required to be kept by this permit.

F. Other Information. When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Department, he or she shall promptly submit such facts or information.

G. Signatory Requirements. All Notices of Intent, storm water pollution prevention plans, reports, certifications or information either submitted to the Department or the operator of a municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed in accordance with the Nebraska Administrative Code as follows:

64.3(8) *Identity of signatories of operation permit applications.* The person who signs the application for an operation permit shall be:

- a. *Corporations.* In the case of corporations, a principal executive officer of at least the level of vice-president.
- b. *Partnerships.* In the case off a partnership, a general partner.
- c. *Sole proprietorships.* In the case of a sole proprietorship, the proprietor.

- d. *Public facilities.* In the case of a municipal, state, or other public facility, by either the principal executive officer, or the ranking elected official.
- e. *Storm water discharge associated with industrial activity from construction activity.* In the case of a storm water discharge associated with industrial activity from construction as identified in 40 CFR 122.26(b)(14)(x), either the owner of the site or the general contractor.

The person who signs NPDES reports shall be the same, except that in the case of a corporation or a public body, monitoring reports required under the terms of the permit may be submitted by the person who is responsible for the overall operation of the facility from which the discharge originated.

- H. **Certification.** Any person signing documents under paragraph VI.G. shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- I. **Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Clean Water Act.
- J. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- K. **Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.
- L. **Transfers.** This permit is not transferable to any person except after notice to the Department. The Department may require the discharger to apply for and obtain an individual NPDES permit as stated in Part II.C.
- M. **Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of this permit.

- N. **Inspection and Entry.** The permittee shall allow the Department or an authorized representative of EPA, the State, or, in the case of a facility which discharges through a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:
1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
 2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and,
 3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).
- O. **Permit Actions.** Coverage under this permit may be terminated for cause. The filing of a request by the permittee for a permit discontinuance, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
- P. **Environmental Laws.** No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

PART 7: REOPENER CLAUSE

If there is evidence indicating potential or realized impacts or water quality due to any storm water discharge associated with industrial activity for construction activities covered by this permit, the owner or operator of such discharge may be required to obtain individual permit in accordance with Part II.C of this permit.

PART 8: DEFINITIONS

"Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Construction site" means a site or common plan of development or sale on which construction activity, including clearing, grading and excavating, results in soil disturbance. A construction site is considered one site if all areas of the site are contiguous with one another and one entity owns all areas of the site.

"CWA" or **"Clean Water Act"** means the Federal Water Pollution Control Act.

"Dedicated portable asphalt plant" means a portable asphalt plant that is located on or contiguous to a construction site and that provides asphalt only to the construction site that the plant is located on or adjacent to.

"Dedicated portable concrete plant" means a portable concrete plant that is located on or contiguous to a construction site and that provides concrete only to the construction site that the plant is located on or adjacent to.

"Dedicated sand or gravel operation" means an operation that produces sand and/or gravel for a single construction project.

"Department" means the Nebraska Department of Water, Energy and Environment (NDEE).

"Final Stabilization" means that all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% for the area has been established or equivalent stabilization measures have been employed or which has been returned to agricultural production.

"Hazardous condition" means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance on to the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment. Code of Nebraska

"Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that, in confinement, generates pressure through decomposition, heat, or other means. The following are examples of substances which, in sufficient quantity may be hazardous: acids; alkalis; explosives; fertilizers; heavy metals such as chromium, arsenic, mercury, lead and cadmium; industrial chemicals; paint thinners; paints; pesticides; petroleum products; poisons, radioactive materials; sludges; and organic solvents. "Hazardous substances" may include any hazardous waste identified or listed by the administrator of the United State Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under section 311 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the secretary of transportation under the Hazardous Materials Transportation Act. Code of Nebraska

"Municipality" means a city, town, borough, county, parish, district, association, or other public body created by or under State law.

"NOI" means Notice of Intent to be covered by this permit (see Part II of this permit.)

"Outstanding Nebraska Waters" means those waters which constitute an outstanding state resource such as waters of exceptional recreational or ecological significance. These waters are identified in Appendix B of the Nebraska Antidegradation Implementation Procedure manual.

"Outstanding National Resource Waters" means those waters which constitute an outstanding national resource such as waters of national and state parks and wildlife refuges and also waters of exceptional recreational or ecological significance. These waters are identified in Appendix B of the Nebraska Antidegradation Implementation Procedure manual.

"Permittee" means the owner of the facility or site.

"Qualified personnel" means those individuals capable enough and knowledgeable enough to perform the required functions adequately well to ensure compliance with the relevant permit conditions and requirements of the Nebraska Administrative Code.

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Storm Water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR part 122. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.

For the categories of industries identified in paragraph (xi) of this definition, the term includes only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above-described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in these paragraphs (i)-(xi) of the definition) include those facilities designated under 40 CFR 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this definition;

- i. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition);
- ii. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;
- iii. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate

SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

- iv. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;
- v. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;
- vi. facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
- vii. Steam electric power generating facilities, including coal handling sites;
- viii. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-4225), 43, 44, 45 and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)-(vii) or (ix)-(xi) of this definition are associated with industrial activity;
- ix. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farmlands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;
- x. Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than one acre of total land area which are not part of a larger common plan of development or sale;

- xi. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-4225, (and which are not otherwise included within categories (ii)-(x));

"Storm water discharge associated with industrial activity for construction activities" means activities that fall under subparagraph (x) in the definition of storm water discharge associated with industrial activity.

"Topsoil" means the fertile, uppermost part of the soil containing significant organic matter largely devoid of debris and rocks and often disturbed in cultivation.

"Uncontaminated groundwater" means water that is potable for humans, meets the narrative water quality standards the Nebraska Administrative Code, contains no more than half the listed concentration of any pollutants, has a pH of 6.5-9.0 and is located in soil or rock strata.

DRAFT

APPENDIX A

**APPLICATION FOR GENERAL STORMWATER PERMIT
FOR CONSTRUCTION ACTIVITY**

To be added by the Contractor

DRAFT

(INSERT APPLICATION FOR STORMWATER PERMIT HERE)

**APPENDIX B
INSPECTION REPORTS**

To be completed and added by the Contractor

DRAFT

EROSION CONTROL SITE INSPECTION REPORT

PROJECT: Northeast Substation **DATE:** _____

FILE NO: 412307 **TIME:** _____

CONTRACTOR: _____ **OWNER:** City of Wayne, NE

LOCATION: _____

WEATHER: _____

INSPECTION TYPE: Scheduled / After Weather Event / Follow-Up / Complaint / Other _____

DAYS SINCE LAST RAINFALL _____ **Amount of Last Rainfall** _____

No.		Yes	No	Not Applicable
1.	Erosion control practices in place and functioning? (mulch, seeding, blankets)			
2.	Sediment traps, barriers, and basins clean and functioning properly?			
3.	Sediment controls in place at site perimeter and storm drain inlets?			
4.	Discharge points free of any noticeable pollutant discharges?			
5.	Sediment, mud and debris being cleaned from public roads?			
6.	Are there adequate provisions to prevent mud tracking off site?			
7.	Is there evidence that sediment is leaving the site and onto adjacent properties?			
8.	Are utility trenches being backfilled properly, tamped and seeded immediately?			
9.	All exposed slopes protected from erosion through acceptable soil stabilization practices?			
10.	Temporary stockpiles or construction materials located in approved areas and protected from erosion?			
11.	Is the site seeded and mulched or blanketed?			
12.	Do any seeded areas require maintenance, fertilization, reseeding or weed control?			
13.	Are dust control measures appropriately implemented?			

No.		Yes	No	Not Applicable
14.	Material handling and storage, and equipment storage and maintenance areas clean and free of spills and leaks?			
15.	On-site traffic routes, parking and storage restricted to designated areas?			
16.	Do any structural measures require repair or clean-out to maintain adequate function?			
17.	Are ALL erosion control devices in place and functioning in accordance with the site's erosion control plan?			

PROBLEMS IDENTIFIED/ACTION TAKEN:

OBSERVATIONS/COMMENTS:

Inspection Report Certification Statement

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

INSPECTOR'S NAME: _____

COMPANY: _____

COPIES TO:

APPENDIX C

NOTICE OF TERMINATION

DRAFT

CATEGORY V

Technical Data

- **Geotechnical Report by Certified Testing Services, Inc. dated December 12, 2024.**

(This data is presented for informational purposes only and is not part of the Contract Documents)

DRAFT



Certified Testing Services, Inc.

GEOTECHNICAL ENGINEERING REPORT

**Northeast Substation and Generation Plant
Wayne, NE**

Prepared For:

City of Wayne, NE
306 Pearl Street
Wayne, NE 68787

Nebraska Cert. No. CA1301
CTS Project No. G7555



Certified Testing Services, Inc.

419 W. 6th Street • P.O. Box 1193 • Sioux City, Iowa 51102 • Phone (712) 252-5132

December 12, 2024

Attn: Mr. Wes Blecke
City Administrator
City of Wayne
P.O. Box 8
306 Pearl Street
Wayne, NE 68787

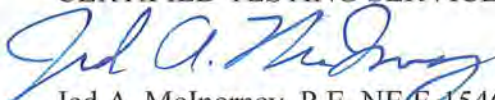
RE: Geotechnical Engineering Report
Northeast Substation and Generation
Plant
Wayne, Nebraska
Nebraska Cert. No. CA1301
CTS Job No. G7555

Dear Mr. Blecke:

Certified Testing Services, Inc. is pleased to transmit our Geotechnical Engineering Report for the referenced project. This report includes the results of field and laboratory testing, and recommendations for foundation design, as well as general site development.

We appreciate the opportunity to perform this Geotechnical Study and look forward to continued participation during the design and construction phases of the project. If you have any questions pertaining to this report or if we may be of further service, please contact our office.

Respectfully submitted,
CERTIFIED TESTING SERVICES, INC.


Jed A. McInerney, P.E. NE E-15460
Senior Geotechnical Engineer


James A. Bertsch, P.E. NE E-6985
Senior Geotechnical Engineer

JAM/JAB/jb

cc: DGR Engineering



GEOTECHNICAL ENGINEERING REPORT

**NORTHEAST SUBSTATION AND GENERATION PLANT
WAYNE, NEBRASKA**

**NEBRASKA CERT. NO. CA1301
CTS PROJECT NO. G7555**

PREPARED FOR

**ATTN: MR. WES BLECKE
CITY ADMINISTRATOR
CITY OF WAYNE
P.O. BOX 8
306 PEARL STREET
WAYNE, NE 68787**

DECEMBER 12, 2024

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PROJECT INFORMATION

Project Authorization

Certified Testing Services, Inc. has completed a subsurface exploration for the Northeast Substation and Generation Plant Project. Mr. Wes Blecke, City Administrator for the City of Wayne, authorized our work by signing our proposal on October 22, 2024. This work was performed in accordance with CTS Proposal Number 6981 dated October 16, 2024.

Project Description

Ms. Danielle Engel of DGR Engineering presented project information in emails on October 14, 2024, November 5 and 19, 2024. The email on October 14, 2024, included a Request for Proposal (RFP) and a plan titled, "Preliminary Northeast Substation Layout – Option 1". The email on November 5, 2024, included Sheet D.08 that was titled, "Northeast Substation Option 6 – Conceptual Grading Limits". The email on November 19, 2024, included Sheet D.08 that was titled, "Northeast Substation Option 6 – Conceptual Grading Limits" showing the proposed boring locations. Mr. Paul Davis, P.E. of DGR Engineering provided additional project information in telephone conversations on October 16, 2024, and December 11, 2024, and email on December 11, 2024. The email included an example of a typical switchgear drawing. CTS understands that the project will consist of a new single power transformer electrical substation and a proposed generation plant located northwest of the intersection of Lindahl Drive and Centennial Road in Wayne, Nebraska. It is also understood the transformer pad and circuit switcher pad will be supported on a slab-on-grade, the H-frame structure, steel support structures and radiators will be supported on drilled concrete piers, the generation plant and control structure will be supported on typical frost depth footings, and the exhaust stacks and fuel tanks will be supported on mat foundations. It is further understood the exhaust stacks will be approximately 40 feet tall and the fuel tanks will be 25 feet in diameter and approximately 18 feet tall. The following is our understanding of the generation plant portion of the project:

Generation Plant Building

- Single-story structure with slab-on-grade at FFE of 1487.0 feet with an approximate 10'x20' basement in switchgear area and possible mezzanine in southeast building area
- Plan dimensions of approximately 230 feet by 307 feet
- CMU block or precast concrete construction is proposed
- Report is based on assumed maximum column loads of 100 kips, assumed maximum wall loads of up to 8 KLF and assumed floor slab loads of 250 PSF
- Report is also based on up to 3 feet of cut and 7 feet of fill required to bring the site to grade with exception to the cut required in the basement area

Substation

- Report is based on up to 6 feet of cut required to bring the site to grade

Control Enclosure

- Single-story structure with slab-on-grade with a half basement

- Plan dimensions of approximately 30 feet by 40 feet
- Pre-engineered metal building construction is proposed
- Report is based on assumed maximum column loads of 50 kips and assumed maximum wall loads of up to 2 KLF
- Report is also based on up to 6 feet of cut required to bring the site to grade with exception to the cut required in the basement area

The geotechnical recommendations presented in this report are based on the available project information, structure locations and the subsurface materials described in this report. If the noted information is incorrect, please inform CTS in writing so that we may amend the recommendations presented in this report if appropriate. CTS will not be responsible for the implementation of its recommendations when it is not notified of changes in the project.

Purpose and Scope of Services

The purpose of this study was to explore the subsurface conditions at the site to prepare recommendations for foundation systems for the proposed construction. Our scope of services included performing three soil test borings in the proposed substation and control enclosure area to depths of 30 feet below the existing grade and seven soil test borings to depths of 30 feet below the existing grade in the generation plant, exhaust stacks, radiators and fuel tank areas. The boring locations were indicated in the plan titled, "Preliminary Northeast Substation Layout – Option 1", provided by DGR. Our scope of work also included performing a soil resistivity test with the Wenner 4-Point method across the entire substation site at minimum spacings of 2', 5', 10', 20', 60', and 100'. The results of the resistivity testing are presented in the "Resistivity Test Results" section of the Appendix. The scope of work also included select laboratory testing, and preparation of this geotechnical report. This report briefly outlines the testing procedures, presents available project information, describes the site and subsurface conditions, and presents recommendations regarding the following:

- Suitability of site for the construction of the proposed project
- Site preparation and grading procedures for project
- Foundation types, depths, allowable bearing capacities and estimate for potential settlement
- Field Resistivity Test Results
- Soil design information for deep foundations
- Recommendations for gravel surfaced areas
- Comments regarding factors that will impact construction and performance of the proposed construction.

The scope of services did not include an environmental assessment of the site.

SITE AND SUBSURFACE CONDITIONS

Site Location and Description

The site for the proposed construction is located northwest of the intersection of Lindahl Drive and Centennial Road in Wayne, Nebraska. The site is bordered by agricultural fields to the north and west, Centennial Drive to the east, and Lindahl Drive to the south.

At the time of drilling, the ground surface at the site was either a harvested agricultural field or was covered in grass. The site sloped down to the east with approximately 12.5 feet of elevation change between the boring locations. The site was firm at the time of our site visit and the drill rig did not experience difficulty moving around the site.

Subsurface Conditions

The site subsurface conditions were explored with a total of ten soil test borings sampled to depths of 30 feet below the existing ground surface in the project area. The boring locations and depths were chosen by DGR Engineering personnel. CTS personnel located the borings in the field using a handheld GPS device. GPS coordinates for the boring locations are presented in the table below and the approximate locations of the borings are also presented on the “Boring Location Plan” included in the Appendix, which is a modified partial copy of Sheet D.08 showing the proposed boring locations. The surface elevations at the borings were determined using conventional leveling techniques and are for general reference only. The top of the manhole cover located at the southeast corner of the site and southeast of Boring B1 was used as a benchmark and an elevation of 1,478.6 feet was interpolated for the benchmark based on the contours on Sheet D.08.

BORING NUMBER	BORING LOCATION
B1	42.24332° N; -96.99895° W
B2	42.24327° N; -96.99931° W
B3	42.24337° N; -96.99966° W
B4	42.24372° N; -96.99937° W
B5	42.24395° N; -96.99968° W
B6	42.24424° N; -96.99961° W
B7	42.24410° N; -96.99880° W
B8	42.24448° N; -96.99880° W
B9	42.24471° N; -96.99917° W
B10	42.24470° N; -96.99995° W

The borings were advanced utilizing solid flight auger drilling methods and soil samples were routinely obtained during the drilling process. Select soil samples were later tested in the laboratory to determine the material’s engineering properties for our evaluation. Drilling, soil sampling and the laboratory testing were accomplished generally in accordance with ASTM procedures. The borings were backfilled with on-site material after performing our work; however, it should be noted that some settlement of the backfill material may occur and it is the client’s responsibility to backfill the borings once we have left the sites.

The subsurface conditions below the surface material generally consisted of lean clay topsoil, lean clay altered loess, lean to fat clay altered loess, lean clay Peorian loess, lean clay with calcium stringers Peorian loess, and silt Peorian loess. The boring logs included in the Appendix should be reviewed for specific information at individual boring locations. The boring logs include soil/rock descriptions, stratifications, penetration resistances, and locations of the samples and laboratory test data. The stratifications shown on the boring logs represent the conditions only at the actual boring locations. Variations may occur and should be expected between boring locations. The stratifications represent the approximate boundary

between subsurface materials and the actual transition may be gradual. Water level information obtained during field operations is also shown on these boring logs. Samples that were not altered by laboratory testing will be retained for 30 days from the date of this report and then will be discarded.

Water Level Measurements

Free water was not encountered at the time of drilling. Water levels should be expected to fluctuate with climatic conditions. It should be noted that with the relatively impervious nature of the materials, a long monitoring time would be required to determine the static water level, which was beyond our scope of work. The water level measurements presented in this report are the levels that were measured at the time of our field activities.

EVALUATIONS AND RECOMMENDATIONS

Geotechnical Discussion Substation and Radiators

The site soils are suitable for supporting the proposed overhead steel support structures, H-frame structures and radiators on a deep caisson foundation system, the control enclosure on the natural material for shallow foundations and the various on-grade structures on a minimum of 12 inches of new structural fill meeting the recommendations in the "Site Preparation" section of this report. Caisson recommendations are presented in the "Drilled Caisson Foundation Construction Related Concerns" section below. Soil design information for the caissons are attached. It should be noted that the values provided are ultimate values and that the top 3.5 feet of material encountered should be ignored for frost action. CTS should be allowed to review the final pile design. The recommendations for the structures supported on-grade are presented in the "Slab and Pad Recommendations" section of this report.

Geotechnical Discussion Generation Plant

CTS has several concerns from a geotechnical standpoint for the generation building area. The first concern is for total and differential settlement due to the varied material that will be encountered at the bottom of the foundations, which will consist of new structural fill needed to bring the site to grade and compressible loess materials encountered in Borings B6 and B10. Our settlement analysis using empirical formulas, empirical soil data, past experience with similar soils, and field and laboratory testing indicates that total settlement due to a maximum column loading of 100 kips will be on the order of 3 inches and differential settlement will be on the order of 2.2 inches and total settlement due to a maximum wall loading of 8 kips per lineal foot will be on the order of 3.5 inches and differential settlement will be on the order of 2.6 inches. In order to minimize total settlement to on the order of an inch and differential settlement to on the order of $\frac{3}{4}$ inches between adjacent columns and in a 50 feet length of wall, CTS recommends that new structural fill be placed under the foundations in accordance with the table presented below. The structural fill material for the foundations should be placed prior to the new area fill placement. The overexcavation for the foundations should extend at least 10 inches horizontally in every direction beyond the outer edges of the foundations for each foot of vertical cut beneath the

bottom of foundations. The new fill material should meet the recommendations of the “Site Preparation” section of this report.

Column Loads

Depth of Fill Below Bottom of Footing

Up to 20 Kips	0.0 Feet
20.1 Kips to 45 Kips	2.0 Feet
45.1 Kips to 65 Kips	3.0 Feet
65.1 Kips to 100 Kips	4.0 Feet

Wall Loads

Depth of Fill Below Bottom of Footing

Up to 3.0 KLF	2.0 Feet
3.1 KLF to 5 KLF	3.0 Feet
5.1 KLF to 6.5 KLF	4.0 Feet
6.6 KLF to 8 KLF	5.0 Feet

The second concern is the expansive lean to fat clay altered loess material encountered at the frost depth foundation elevation and at floor slab elevation in the top 3.5 to 5.5 feet in Borings B6, B8, B9, and B10 and will likely be encountered in other areas. The expansive lean to fat clay altered loess material has moisture contents that range from 20 percent to 27 percent, liquid limit of 54 percent, plastic limit of 22 percent and plasticity index of 32 percent, which would indicate the expansive lean to fat clay altered loess material has a low to moderate expansion potential at the existing moisture content; however, if the expansive lean to fat clay altered loess material should undergo a decrease in moisture content the expansive lean to fat clay altered loess material would have a very high expansion potential. It should be noted that the expansive lean to fat clay altered loess material will shrink causing settlement, if the expansive lean to fat clay altered loess material should undergo a decrease in moisture content, and if it should undergo an increase in moisture content after a decrease in moisture content, the expansive lean to fat clay altered loess material will swell causing upward movement. The only way to eliminate the potential for vertical movement in the foundation and floor slab area would be to remove the expansive lean to fat clay altered loess material and replace the expansive lean to fat clay altered loess material with material meeting the “Site Preparation” section of this report; however, based on the depth of the expansive lean to fat clay altered loess material, it may not be economical to remove and replace the expansive lean to fat clay altered loess material. A method that has been used to reduce the amount of vertical movement in the foundations would be to remove the expansive lean to fat clay altered loess material that is encountered in the foundation areas to the depths recommended in the first concern to control settlement and replace the expansive lean to fat clay altered loess material with new non-expansive structural fill meeting the recommendations in the “Site Preparation” section of this report. The minimum recommended new material in the first concern will minimize the effects of the expansive lean to fat clay altered loess material in the foundation areas; however, the owner should be aware that some vertical movement may still occur and be willing to assume this risk. The foundations should be overexcavated a minimum of 10 inches horizontally in each direction beyond the outer edges of the foundations for each foot of cut beneath the bottom of the foundations. The floor slab in the generation plant area should be supported on a minimum of 2 feet of new structural consisting of material meeting the recommendations in the “Site Preparation” section of this report.

Geotechnical Discussion Fuel Tanks and Exhaust Stacks

The main concern for the fuel tank area is the compressible loess material encountered at bottom of tank foundation elevation in Boring B4. In order to minimize total and differential settlement, CTS recommends the fuel tank foundation be placed on a minimum of 2 feet of new structural fill material meeting the recommendations of the “Site Preparation” section of this report. The foundation should be overexcavated a minimum of 10 inches horizontally in each direction beyond the outer edges of the foundations for each foot of cut beneath the bottom of the foundations.

The main concern for the exhaust stacks is the expansive lean to fat clay altered loess material encountered at the frost depth foundation elevation 3.5 feet in Boring B6 and as discussed in the second concern in the “Geotechnical Discussion Generation Plant” section of this report. A method that has been used to reduce the amount of vertical movement in the foundation area would be to remove the expansive lean to fat clay altered loess material that is encountered within 2 feet of bottom of foundations and replace the expansive material with new structural fill material meeting the recommendations of the “Site Preparation” section of this report. The foundation should be overexcavated a minimum of 10 inches horizontally in each direction beyond the outer edges of the foundations for each foot of cut beneath the bottom of the foundations.

Geotechnical Discussion Gravel and Drive Areas

Subgrade preparation in the gravel parking and drive areas that do not need to be all-weather roads should consist of scarifying, moisture conditioning and compacting the top 12 inches of the subgrade to meet the recommendations of the “Site Preparation” section of this report after the areas have been proofrolled, as discussed in the “Site Preparation” section of this report, and new fill material has been placed. After the subgrade has been prepared, CTS recommends that the gravel surface be a minimum of 12 inches thick and be compacted in two 6-inch lifts to meet the recommendations in the “Site Preparation” section of this report. It should be noted that periodic maintenance will need to be performed, which may include adding additional gravel and possibly adding geogrid in soft areas. CTS recommends a well-graded granular material with less than 9 percent passing the #200 sieve be used for the gravel surfaced areas and the material passing the #200 sieve should not contain clay.

Subgrade preparation in granular all-weather parking/drive areas, after the site has been proofrolled as discussed in the “Site Preparation” section of this report and new fill material has been placed, should consist of scarifying, moisture conditioning and compacting the top 12 inches of the subgrade to meet the recommendations of the “Site Preparation” section of this report. Subgrade prepared as recommended would provide for a CBR of 2 to 3 percent. In order to provide for an all-weather surface, CTS recommends that drains consisting of 4-inch or 6-inch heavy walled perforated pipe be installed at a depth of 42 inches below the top of the gravel surface and a well-graded crushed stone be installed around the drains and extend up to the gravel surface. The drains should be installed a minimum of every 20 feet. If the drains are less than 12 inches wide, CTS would recommend that the granular in the drains be wrapped with a filter fabric to reduce the potential for clay particles to clog the drains. The purpose of the drains is to remove accumulated water from the granular material and reduce the potential for frost heave and other issues that may occur. The top of the subgrade should be graded toward the drains to help remove the surface water more

quickly. CTS recommends that a geogrid such as a Mirafi® BXG 110, Tensar® BX1100, or equivalent be placed on top of the prepared subgrade and then a minimum of 12 inches of gravel surface material, compacted in two 6-inch lifts, be placed on top of the geogrid. It should be noted that periodic maintenance will need to be performed, which may include adding additional gravel. CTS recommends that the gravel surface and drain material consist of a well-graded granular material having a maximum particle size of 1½ inches and less than 6 percent passing the #200 sieve. The material passing the #200 sieve should not contain clay.

Geotechnical Discussion General

The seismic site classification for the site soils, in accordance with ASCE 7, Chapter 20, is a Class D. Due to the low seismic activity in the area, we are not aware of special designs or details for foundation structures due to seismic action.

Site Preparation

CTS recommends that topsoil, vegetation, roots, unsuitable soils, material containing frost, and soft soils in the construction areas be stripped from the site and discarded or used in landscaping areas, if appropriate. The on-site lean clay materials would be suitable for use as structural fill and backfill material; however, it should be noted that some of the materials are very moist and would need to be moisture conditioned, dried, prior to being used as structural fill and backfill. The lean to fat clay altered loess material would not be suitable for use as structural fill material. A representative of the geotechnical engineer should determine the depth of removal of the material at the time of construction.

After stripping and excavating to the proposed recommended subgrade level and prior to placing new area fill material, the various areas that will receive new area fill and floor slab areas should be proofrolled with the heaviest rubber tire equipment that will be used on the site. Soils that are observed to rut or deflect excessively (typically greater than 1-inch) under the moving load should be undercut and replaced with structural fill. The proofrolling and undercutting activities should be witnessed by a representative of the geotechnical engineer and should be performed during a period of dry weather. If excessive movement is observed during the proofrolling, the proofrolling should be stopped and the site evaluated by the geotechnical engineer.

After subgrade preparation and observation have been completed, fill placement may begin. Fill materials should be a silt or lean clay material, unless granular material is used below the foundations to frost depth. Fill materials should be free of organic or other deleterious materials, have a maximum particle size of less than 3 inches, and have a liquid limit less than 45 and plasticity index less than 22. Fill materials should not contain frost and new fill should not be placed on frozen ground. Close moisture content control of the silt and lean clay will be required to achieve the recommended degree of compaction.

Structural fill should be placed in maximum loose lifts of 4 inches for hand compaction equipment and 8 inches for riding compaction equipment. The structural fill material should be compacted to at least 98 percent of the materials' standard Proctor maximum dry density. Backfill around the perimeter of the structures should be compacted to a minimum of 93 percent with the exception of areas where pavement, sidewalks and other structural areas will be placed. Silt material should be compacted to within a minus 5 to a plus 2 percent of the optimum moisture content and lean clay material should be compacted to

within a minus 3 to a plus 3 percent of the optimum moisture content as determined in general accordance with ASTM D 698 procedures. Every other lift of compacted-engineered fill should be tested by a representative of the geotechnical engineer prior to placement of subsequent lifts.

Shallow Foundation Recommendations

The control enclosure can be supported on conventional foundations bearing on natural undisturbed material or on new structural fill as discussed in the “Geotechnical Discussion Substation and Radiators” section of this report and the generation plant can be supported on conventional foundations bearing on new structural fill as discussed in the first concern in the “Geotechnical Discussion Generation Plant” section of this report. Spread footings for building columns and continuous footings for bearing walls can be designed for a net allowable soil bearing pressure of 2,000 PSF based on dead load plus design live load. Footings should have a minimum dimension of 24 inches for column footings, 12 inches for trench footings and 18 inches for continuous footings in order to minimize the possibility of a local bearing capacity failure.

Exterior footings and footings in unheated areas should be located at a depth of 42 inches or deeper below the final exterior grade to provide adequate frost protection. If the structures are to be constructed during the winter months or if footings will likely be subjected to freezing temperatures after foundation construction, then all footings should be protected from freezing. Otherwise, interior footings can be located at nominal depths compatible with architectural and structural considerations.

The foundation excavations should be observed by a representative of CTS prior to steel or concrete placement to assess that the foundation materials are capable of supporting the design loads and are consistent with the materials discussed in this report. Soft or loose soil zones encountered at the bottom of the footing excavations should be removed to the level of competent naturally deposited soils or properly compacted structural fill as directed by the geotechnical engineer.

After opening, footing excavations should be observed and concrete placed as quickly as possible to avoid exposure of the footing bottoms to wetting and drying. Surface run-off water should be drained away from the excavations and not be allowed to pond. If possible, the foundation concrete should be placed during the same day the excavation is made. If it is required that footing excavations be left open for more than one day, they should be protected to reduce evaporation or entry of moisture.

Consolidation testing was beyond the scope of this exploration. Based on the known subsurface conditions and site geology, laboratory testing, and past experience, we anticipate that properly designed and constructed footings supported on the recommended fill materials should experience total and differential settlements between adjacent columns and within a 50 feet length of wall of on the order of 1-inch and $\frac{3}{4}$ -inch, respectively, unless the lean to fat clay material should undergo changes in moisture content.

Floor Slab Recommendations

The floor slabs for the generation plant should be supported on a minimum of 2 feet of structural fill meeting the “Site Preparation” section of this report, which will be created in

some areas during the site grading and the floor slabs for the control enclosure should be supported on a minimum of 12 inches of structural fill meeting the “Site Preparation” section of this report. **Final floor slab preparation, including density testing of the subgrade, should occur just prior to the floor slab being placed.** CTS recommends that a compacted free draining granular mat with a minimum thickness of 4 inches be placed beneath the floor slab to enhance drainage. The granular mat should consist of coarse sand or well-graded gravel with a maximum size particle of 1-inch and have less than 5 percent passing the #200 sieve. It should be noted that the material passing the #200 sieve should not contain clay. Polyethylene sheeting, if used, should be placed in accordance with the “Manual of Concrete Practice of the American Concrete Institute”. The floor slabs should have an adequate number of joints to reduce cracking resulting from differential movement and shrinkage. Floor slabs should not be constructed on frozen ground.

CTS recommends that floor slabs in non-heated areas be supported on polystyrene foam board with a minimum thickness of 1.5 inches in order to minimize the potential for frost heave. CTS recommends that the joints of the polystyrene foam board be taped. The owner should be aware that the polystyrene foam board will greatly reduce the amount of frost heave but frost heave may still occur. Granular material would not be required under floor slabs in unheated areas.

Subgrade prepared as recommended would have a modulus of subgrade reaction, k value, of 144 kips per cubic foot (kcf), based on an allowable settlement of $\frac{1}{2}$ -inch, and friction factor of 0.3 that may be used in the slab-on-grade design.

Slab and Pad Recommendations

The on-grade structures should be supported on a minimum of 12 inches of structural fill meeting the “Site Preparation” section of this report. **Final slab and pad preparation, including density testing of the subgrade, should occur just prior to the slab and pad being placed.** Slabs and pad should not be constructed on frozen ground.

Subgrade prepared as recommended would have a modulus of subgrade reaction, k value, of 144 kips per cubic foot (kcf), based on an allowable settlement of $\frac{1}{2}$ -inch, and friction factor of 0.3 that may be used in the slab and pad design. Granular material should not be placed under exterior mat foundations unless drains are installed to remove the water or the granular material extends to a minimum depth of 42 inches below the final grade.

Exterior slabs and pads should extend to a depth of 42 inches or deeper below the final exterior grade to provide adequate frost protection, placed on 42 inches of non-frost susceptible material or supported on polystyrene foam board with a minimum thickness of 1.5 inches in order to minimize the potential for frost heave. The owner should be aware that the polystyrene foam board will greatly reduce the amount of frost heave but frost heave may still occur. Granular material should not be placed under exterior slab or pad foundations unless drains are installed to remove the water or the granular material extends to a minimum depth of 42 inches below the final grade.

The subgrade for the slab and pad should be observed by a representative of CTS prior to steel or concrete placement to assess that the materials are capable of supporting the design loads and are consistent with the materials discussed in this report. Soft or loose soil zones

encountered at the bottom of the foundation excavations should be removed to the level of competent naturally deposited soils or properly compacted structural fill as directed by the geotechnical engineer.

After opening, excavations should be observed and concrete placed as quickly as possible to avoid exposure of the slab and pad bottoms to wetting and drying. Surface run-off water should be drained away from the excavations and not be allowed to pond. If possible, the concrete should be placed during the same day the excavation is made. If it is required that foundation excavations be left open for more than one day, they should be protected to reduce evaporation or entry of moisture.

Mat Foundation Recommendations

The proposed exhaust stacks and fuel tanks may be supported on a mat foundation supported on a minimum of 2 feet of new structural fill material meeting the “Site Preparation” section of this report. The subgrade would have a modulus of subgrade reaction, k value, of 72 kips per cubic foot (kcf), based on an inch of allowable settlement, friction factor of 0.3 and net allowable bearing capacity of 2,000 PSF.

Exterior mat foundations should extend to a depth of 42 inches or deeper below the final exterior grade to provide adequate frost protection, placed on 42 inches of non-frost susceptible material or supported on polystyrene foam board with a minimum thickness of 1.5 inches in order to minimize the potential for frost heave. The owner should be aware that the polystyrene foam board will greatly reduce the amount of frost heave but frost heave may still occur. Granular material should not be placed under exterior mat foundations unless drains are installed to remove the water or the granular material extends to a minimum depth of 42 inches below the final grade.

The mat foundation excavations should be observed by a representative of CTS prior to steel or concrete placement to assess that the foundation materials are capable of supporting the design loads and are consistent with the materials discussed in this report. Soft or loose soil zones encountered at the bottom of the mat foundation excavations should be removed to the level of competent naturally deposited soils or properly compacted structural fill as directed by the geotechnical engineer.

After opening, mat foundation excavations should be observed and concrete placed as quickly as possible to avoid exposure of the mat foundation bottoms to wetting and drying. Surface run-off water should be drained away from the excavations and not be allowed to pond. If possible, the mat foundation concrete should be placed during the same day the excavation is made. If it is required that mat foundation excavations be left open for more than one day, they should be protected to reduce evaporation or entry of moisture.

Deep Foundation Recommendations

Drilled pier foundations may be used to support the overhead steel support structures and other miscellaneous structures. CTS recommends that the information in the table presented in the “Soil Design Information” section of the Appendix be used to design the drilled pier foundations.

The ultimate skin friction values presented in the table in the “Soil Design

Information” section of the Appendix of this report may also be used for uplift forces as well as the weight of the pier. It should be noted that the top 3.5 feet of material encountered should be ignored for frost action. It should also be noted that the internal friction angle values provided for lean clay materials are based on laboratory testing of similar materials. CTS should be allowed to review the final pile design.

Drilled Caisson Foundation Construction

Based on the subsurface conditions encountered in the soil test borings, it appears that straight shaft or belled piers are suitable for support of the structures. A top casing is recommended. The shaft excavations should be cleaned out after the bearing elevation has been reached. Loose soils and accumulated water seepage should be removed, if possible, and the drill shaft concrete placed "in the dry". If the piers cannot be placed dry then the drilled shaft concrete must be placed by pumping the concrete.

The foundation contractor should have available suitable lengths of appropriate diameter temporary casing at the site during drilled shaft excavations to respond to potential sloughing problems without delay. When the drilled shaft excavation is completed, the reinforcing steel should be set and the concrete placed until a positive head of concrete has been placed on the casing. This positive concrete head should be kept in the casing prior to pulling the casing, to prevent water and soil outside the casing from contaminating the concrete in the shaft. After the drilled shaft has been completed to near the proper elevation with an appropriate head of concrete, the temporary casing can be withdrawn.

To reduce lateral movement of the foundations, it is necessary to place the drilled shaft concrete in intimate contact with undisturbed natural soil. Voids or enlargements in the drilled shaft due to overexcavation or caving soil conditions must be filled with concrete at the time the concrete is placed. To reduce the potential of arching and to provide a workable material, we recommend the drilled shaft concrete mix be designed for a slump of 5 to 7 inches.

The drilled shaft design and construction procedures should be reviewed with the selected contractor prior to the onset of the work activity. CTS will be pleased to review the plans and specifications for the foundation work once they are prepared, so that we may have the opportunity to comment on the effect of the soil and groundwater conditions on the design and on the contractor's proposed methods. Caisson installations should be inspected by a representative of the geotechnical engineer to determine the adequacy of the bearing material and to check that they conform to the specification.

Below Grade Wall Design and Construction

Below grade walls such as retaining walls and exterior basement walls designed as retaining walls will need to be designed to resist lateral earth pressures. Based on the lean clay subsurface materials encountered by the borings, equivalent fluid pressures of 75 PSF/F may be used as the horizontal components of the at-rest earth pressure on the below grade walls, an equivalent fluid pressure of 50 PSF/F may be used as the horizontal components of the active earth pressure on the freestanding below grade walls, which are permitted to rotate slightly, and an equivalent fluid pressure of 240 PSF/F may be used as the horizontal components of the passive earth pressure. A friction factor for the base of 0.3 may be used for the base of below grade walls. These pressures are limited to a horizontal grade above the foundation

wall and no additional pressures at the surface. The following coefficients were used to determine the equivalent fluid pressures:

Internal friction angle	10 to 15 degrees
At-Rest K_o	0.75
Active Pressure K_a	0.6
Passive Pressure, K_p	1.7

However, if coarse sand or gravel is used to backfill the below grade wall and a minimum of 2 feet of the granular material is used between the natural material and the wall, equivalent fluid pressures of 55 PSF/F may be used as the horizontal components of the at-rest earth pressure on the below grade walls, an equivalent fluid pressure of 35 PSF/F may be used as the horizontal components of the active earth pressure on the freestanding below grade walls, which are permitted to rotate slightly, and an equivalent fluid pressure of 400 PSF/F may be used as the horizontal components of the passive earth pressure for the below grade walls. A friction factor for the base of 0.3 may be used for the base of below grade walls. These pressures are limited to a horizontal grade above the foundation wall and no additional pressures at the surface. The following coefficients were used to determine the equivalent fluid pressures:

Internal friction angle	30 to 34 degrees
At-Rest K_o	0.45
Active Pressure K_a	0.3
Passive Pressure, K_p	3.25

The values presented above were calculated assuming positive foundation drainage is provided to prevent the buildup of hydrostatic pressure. If surface loads are placed near the walls, such as traffic loads, they should be designed to resist an additional uniform lateral load of one-half of the vertical surface loads.

CTS recommends that retaining walls, utility tunnels and below-grade basement walls be provided with foundation drains. The drainage system should include a 4-inch or 6-inch diameter heavy walled perforated draitile placed at the bottom of the backfill to collect seepage water with the tile connected to a suitable means of disposal. A clean 1½-inch or 1-inch gravel classified as "GW" and containing less than 5 percent passing a #200 sieve should surround the draitile and either extending to two feet above the draitile with drainage matting consisting of filter fabric being installed against the wall or the granular material should extend to within 2 feet of the surface. A non-woven 4-ounce per square yard geotextile should be installed between the drainage material and the on-site soils to prevent infiltration of fine-grained soils into the draitile, granular drainage blanket, or granular backfill. A 2 feet thick clay cap should be placed at the surface to minimize infiltration of surface water.

The wall excavation should be benched or stepped in horizontal and vertical surfaces to prevent the wall backfill from slipping along the interface of the existing subsoil and the backfill material. The backfill material should be compacted to a minimum density of 93 percent of the maximum laboratory density as determined by ASTM D698 in non-structural areas and to at least 98 percent in structural areas. Care should be exercised during the backfilling operation to prevent overstressing and damaging the walls.

CONSTRUCTION CONSIDERATIONS

CTS should be retained to provide observation and testing of construction activities involved in the foundation, earthwork, and related activities of this project. CTS cannot accept responsibility for conditions that deviate from those described in this report, nor for the performance of the foundation system if not engaged to also provide continuous construction observation and testing during the site construction on this project.

Moisture Sensitive Soils and Weather Related Concerns

The fine-grained soils encountered at this site are sensitive to disturbances caused by construction activity and to changes in moisture content. During wet weather periods, increases in the moisture content of the soil can cause significant reduction in the soil strength and support capabilities. In addition, soils that become wet may be slow to dry and thus significantly retard the progress of grading and compaction activities. It will, therefore, be advantageous to perform earthwork construction activities during dry weather.

Drainage and Groundwater Considerations

Water should not be allowed to collect in the foundation excavations, on slab-on-grade areas, or on prepared subgrade of the construction area either during or after construction. Undercut or excavated areas should be sloped toward one corner to facilitate removal of collected rainwater, groundwater, or surface runoff. Positive site drainage should be provided to reduce infiltration of surface water around the perimeter of the structures and beneath the slabs. The grades should be sloped away from the structures and surface drainage should be collected and discharged such that water is not permitted to infiltrate the backfill and slab areas. Footings and slab subgrade should be inspected prior to placing of reinforcing steel and concrete, particularly after heavy rains or when water has set on the subgrade.

Free groundwater was not encountered at the time the field exploration was conducted and should not affect construction. It is possible that seasonal variations will cause fluctuations or a water table to be present in the upper soils. Prior to construction, the contractor should determine the static groundwater elevation if the caissons will extend below the depth of our borings. Water should be removed from excavations by pumping. Should excessive and uncontrolled amounts of seepage occur the geotechnical engineer should be consulted.

Excavations

In Federal Register, Volume 54, Number 209 (October 1989), the United States Department of Labor, Occupational Safety and Health Administration (OSHA) amended its "Construction Standards for Excavations, 29 CFR, part 1926, Subpart P". This document was issued to better enhance the safety of workers entering trenches or excavations. It is mandated by this federal regulation that excavations, whether they be utility trenches, basement excavation or footing excavations, be constructed in accordance with the new OSHA guidelines. It is our understanding that these regulations are being strictly enforced and if they are not closely followed, the owner and the contractor could be liable for substantial penalties.

The contractor is solely responsible for designing and constructing stable, temporary excavations and should shore, slope, or bench the sides of the excavations as required to

maintain stability of both the excavation sides and bottom. The contractor's "responsible person", as defined in 29 CFR Part 1926, should evaluate the soil exposed in the excavations as part of the contractor's safety procedures. In no case should slope height, slope inclination, or excavation depth, including utility trench excavation depth, exceed those specified in local, state, and federal safety regulations. The silt and lean clay site materials are a Class B material in accordance with OSHA criteria.

We are providing this information solely as a service to our client. CTS does not assume responsibility for construction site safety or the contractor's or other party's compliance with local, state, and federal safety or other regulations.

REPORT LIMITATIONS

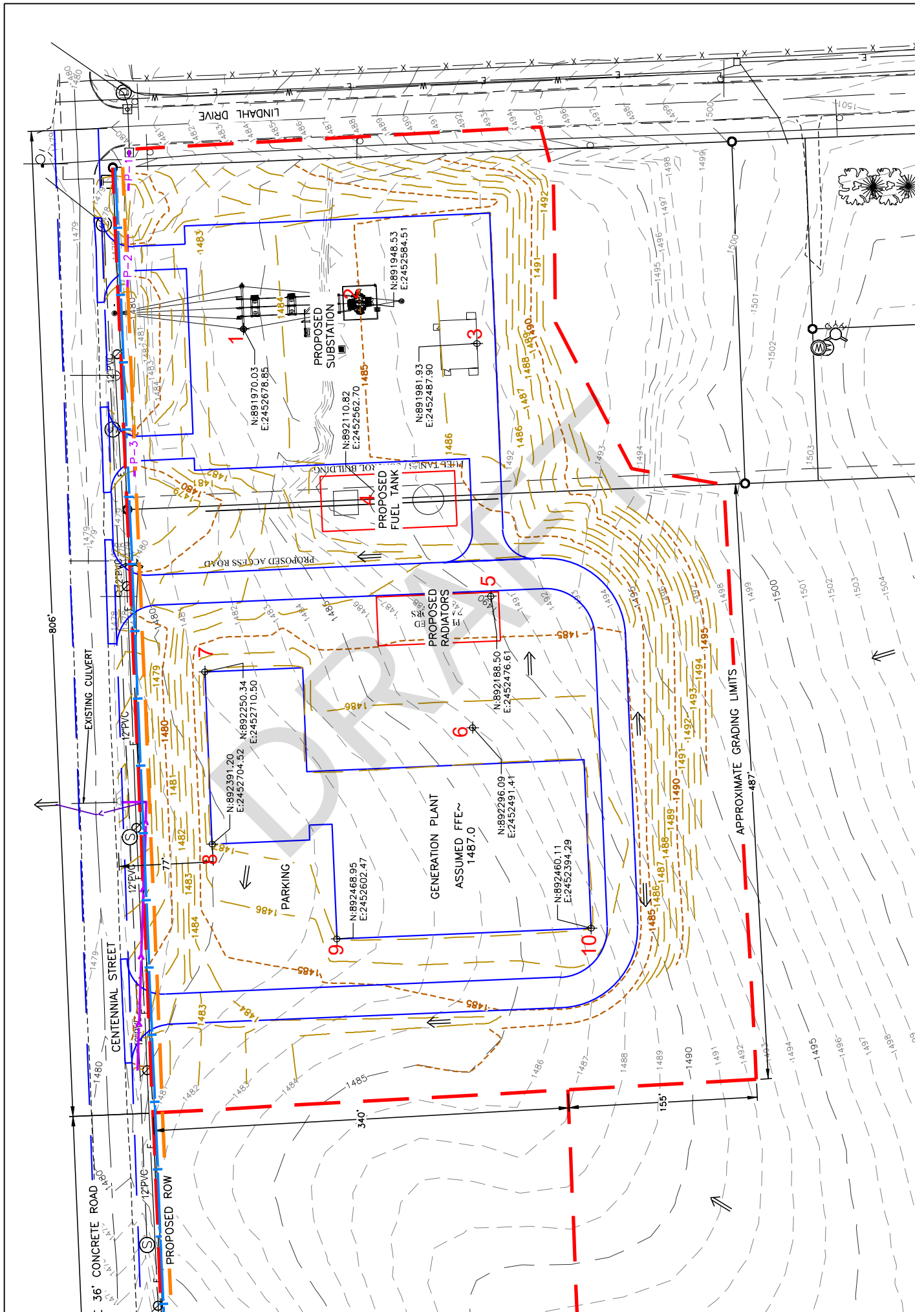
The recommendations submitted are based on the available subsurface information obtained by CTS and design details furnished by Ms. Danielle Engel and Mr. Paul Davis of DGR Engineering. If deviations from the subsurface conditions noted in this report are encountered during construction, CTS should be notified immediately to determine if changes in the foundation recommendations are required. If CTS is not retained to perform these functions, CTS will not be responsible for the impact of those conditions on the project.

The geotechnical engineer warrants that the findings, recommendations, specifications, or professional advice contained herein have been made in accordance with generally accepted professional geotechnical engineering practices in the local area. No other warranties are implied or expressed.

After the plans and specifications are complete, the geotechnical engineer should be retained and provided the opportunity to review the final design plans and specifications to check that our engineering recommendations have been properly incorporated into the design documents. At that time, it may be necessary to submit supplementary recommendations. This report has been prepared for the exclusive use of the City of Wayne and their consultants for the specific application to the Proposed Northeast Substation Project in Wayne, Nebraska.

APPENDIX

BORING LOCATION PLAN



BORING LOGS



LOG OF EXPLORATORY BORING

Sheet 1 of 1

Job Number: **G7555**
Project: **Northeast Substation and Generation Plant**
Date Started: **11/27/24**
Date Completed: **11/27/24**

Boring No.: **B-1**
Boring Location: **Wayne, NE**
Drill Type: **Flight Auger**
Ground Elev.: **1484.4**

Depth in Feet	Graphic Log	Sample Type	 Shelby Tube	 Standard Split Spoon	 Water Level ATD	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows/ 1-3/4")
			 Modified California	 Grab Sample	 Water Level After 24-Hours											
		SOIL DESCRIPTION														
			6-Inch Root Zone, 1-Inch Frost Layer at Surface			CL	3-4-6 N= 10	20								
			LEAN CLAY, Medium Brown to Medium Yellow Brown and Gray, Moist, Stiff, Oxidized, Altered Loess													
5			LEAN CLAY, Yellow Brown and Gray, Moist, Medium to Very Stiff, Peorian Loess (Roots)			CL	16	83	44	4.50						
							2-3-3 N= 6	21								
10							20	91	65	4.50						
							4-5-6 N= 11	17								
15			(Oxidized)													
							20	100	80	4.50	3.10					
20							4-7-8 N= 15	21								
25			(Light Gray Brown and Yellow Brown, Oxidized)													
			(Medium Yellow Brown and Gray, Oxidized)				18	95	66	4.50						
30			END OF BORING AT 30 FEET FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING													

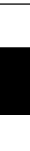
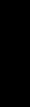
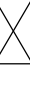
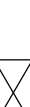


LOG OF EXPLORATORY BORING

Sheet 1 of 1

Job Number: **G7555**
Project: **Northeast Substation and Generation Plant**
Date Started: **11/27/24**
Date Completed: **11/27/24**

Boring No.: **B-2**
Boring Location: **Wayne, NE**
Drill Type: **Flight Auger**
Ground Elev.: **1490.7**

Depth in Feet	Graphic Log	Sample Type	 Shelby Tube	 Standard Split Spoon	 Water Level ATD	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows/ 1-3/4")
			 Modified California	 Grab Sample	 Water Level After 24-Hours											
			6-Inch Root Zone, 1-Inch Frost Layer at Surface					15	83	40	4.50					
5			LEAN CLAY, Light Brown and Medium Yellow Brown, Moist, Medium, Altered Loess			CL	5-3-3 N= 6	16								
			LEAN CLAY, Yellow Brown and Gray, Moist, Stiff to Very Stiff, Peorian Loess			CL		14	101	58	4.50					
10							2-3-5 N= 8	15								
15								16	101	67	4.50					
20							4-4-5 N= 9	17								
25			(Gray Brown and Medium Yellow Brown)					19	91	60	4.50	3.10				
30							4-6-7 N= 13	18								
			END OF BORING AT 30 FEET FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING													



LOG OF EXPLORATORY BORING

Sheet 1 of 1

Job Number: **G7555**
Project: **Northeast Substation and Generation Plant**
Date Started: **11/27/24**
Date Completed: **11/27/24**

Boring No.: **B-3**
Boring Location: **Wayne, NE**
Drill Type: **Flight Auger**
Ground Elev.: **1491.9**

Depth in Feet	Graphic Log	Sample Type	 Shelby Tube	 Standard Split Spoon	 Water Level ATD	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows/ 1-3/4")
			 Modified California	 Grab Sample	 Water Level After 24-Hours											
		SOIL DESCRIPTION														
			6-Inch Root Zone, 1-Inch Frost Layer at Surface			CL	3-7-9 N= 16	22								
			LEAN CLAY, Medium Brown to Light Brown, Very Moist, Very Stiff, Altered Loess			CL										
5			LEAN CLAY, Medium Brown and Gray, Moist to Very Moist, Medium to Stiff, Peorian Loess (Roots)				16	98	61	4.50						
			(Medium Yellow Brown and Gray)				2-3-3 N= 6	21								
10							23	94	79	4.00						
15							3-4-4 N= 8	22								
20							20	98	77	4.50						
25							3-5-5 N= 10	21								
30			(Light Brown and Gray)				24	94	84	4.50						
			END OF BORING AT 30 FEET FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING													

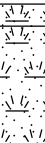


LOG OF EXPLORATORY BORING

Sheet 1 of 1

Job Number: **G7555**
Project: **Northeast Substation and Generation Plant**
Date Started: **11/27/24**
Date Completed: **11/27/24**

Boring No.: **B-4**
Boring Location: **Wayne, NE**
Drill Type: **Flight Auger**
Ground Elev.: **1490.8**

Depth in Feet	Graphic Log	Sample Type	 Shelby Tube	 Standard Split Spoon	 Water Level ATD	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows/ 1-3/4")
			 Modified California	 Grab Sample	 Water Level After 24-Hours											
			SOIL DESCRIPTION													
			6-Inch Root Zone, 1-Inch Frost Layer at Surface					15	89	46	4.50					
			LEAN CLAY, Dark Brown to Medium Brown, Moist, Desiccated, Topsoil													
5			LEAN CLAY, Medium Yellow Brown, Moist, Stiff, Altered Loess			CL	3-4-6 N= 10	17								
			LEAN CLAY WITH CALCIUM STRINGERS, Yellow Brown and Gray, Moist to Very Moist, Medium to Very Stiff, Peorian Loess			CL		12	81	31	4.50					
10							2-3-3 N= 6	15								
15			(Oxidized)					19	98	74	4.50					
20							3-4-5 N= 9	20								
25								21	97	81	4.50	1.30				
30							4-6-8 N= 14	17								
			END OF BORING AT 30 FEET FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING													



LOG OF EXPLORATORY BORING

Sheet 1 of 1

Job Number: **G7555**
Project: **Northeast Substation and Generation Plant**
Date Started: **11/29/24**
Date Completed: **11/29/24**

Boring No.: **B-5**
Boring Location: **Wayne, NE**
Drill Type: **Flight Auger**
Ground Elev.: **1490.5**

Depth in Feet	Graphic Log	Sample Type	 Shelby Tube	 Standard Split Spoon	 Water Level ATD	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows/ 1-3/4")
			 Modified California	 Grab Sample	 Water Level After 24-Hours											
			SOIL DESCRIPTION													

		12-Inch Root and Disturbed Zone, 2-Inch Frost Layer at Surface														
		LEAN CLAY, Medium Brown to Light Brown, Very Moist to Moist, Very Stiff, Altered Loess	CL	5-6-9 N= 15	22											
5		(Light Gray Brown)			17											
		SILT, Yellow Brown and Gray, Very Moist, Medium, Oxidized, Peorian Loess	ML	2-2-3 N= 5	21											
		LEAN CLAY, Grayish Yellow Brown, Very Moist, Stiff to Very Stiff, Oxidized, Peorian Loess	CL		22	96	80	4.00								
10																
		(Medium Yellow Brown and Gray)		3-5-5 N= 10	22											
15																
					22	94	78	4.50								
20																
				5-6-9 N= 15	23											
25																
					23	95	81	4.50								
30		END OF BORING AT 30 FEET FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING														



LOG OF EXPLORATORY BORING

Sheet 1 of 1

Job Number: **G7555**
Project: **Northeast Substation and Generation Plant**
Date Started: **11/29/24**
Date Completed: **11/29/24**

Boring No.: **B-6**
Boring Location: **Wayne, NE**
Drill Type: **Flight Auger**
Ground Elev.: **1486.8**

Depth in Feet	Graphic Log	Sample Type	 Shelby Tube	 Standard Split Spoon	 Water Level ATD	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows/ 1-3/4")
			 Modified California	 Grab Sample	 Water Level After 24-Hours											
		SOIL DESCRIPTION														

		12-Inch Root and Disturbed Zone, 2-Inch Frost Layer at Surface														
		LEAN TO FAT CLAY, Dark Brown to Medium Brown, Moist, Altered Loess	CL-CH					25	96	93	4.50					
5		LEAN CLAY, Medium Yellow Brown and Gray, Moist to Very Moist, Medium to Very Stiff, Peorian Loess	CL	5-3-3 N= 6	19											
					24	93	80	4.50								
10				2-3-3 N= 6	26											
					27	91	88	2.50								
15																
20				4-6-7 N= 13	26											
25					24	95	85	4.00								
30		(Light Brownish Gray and Medium Yellow Brown) END OF BORING AT 30 FEET FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING		7-6-9 N= 15	25											



LOG OF EXPLORATORY BORING

Sheet 1 of 1

Job Number: **G7555**
Project: **Northeast Substation and Generation Plant**
Date Started: **11/29/24**
Date Completed: **11/29/24**

Boring No.: **B-7**
Boring Location: **Wayne, NE**
Drill Type: **Flight Auger**
Ground Elev.: **1481.0**

Depth in Feet	Graphic Log	Sample Type	 Shelby Tube	 Standard Split Spoon	 Water Level ATD	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows/ 1-3/4")
			 Modified California	 Grab Sample	 Water Level After 24-Hours											
			SOIL DESCRIPTION													
			12-Inch Root and Disturbed Zone													
			LEAN CLAY, Medium Brown to Light Brown, Very Moist, Stiff, Altered Loess			CL	6-5-5 N= 10	21								
5			LEAN CLAY, Yellow Brown and Gray, Moist, Peorian Loess			CL		15	99	58	4.50					
			SILT, Yellow Brown and Gray, Very Moist, Medium to Stiff, Peorian Loess			ML	2-2-3 N= 5	21								
10								22	99	86	4.50					
15							2-3-5 N= 8	21								
20			LEAN CLAY, Yellow Brown and Gray, Moist to Very Moist, Stiff, Peorian Loess			CL		23	95	80	4.50					
25							4-3-5 N= 8	19								
30			(Oxidized)					21	99	83	4.00					
			END OF BORING AT 30 FEET FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING													



LOG OF EXPLORATORY BORING

Sheet 1 of 1

Job Number: **G7555**
Project: **Northeast Substation and Generation Plant**
Date Started: **12/2/24**
Date Completed: **12/2/24**

Boring No.: **B-8**
Boring Location: **Wayne, NE**
Drill Type: **Flight Auger**
Ground Elev.: **1479.5**

Depth in Feet	Graphic Log	Sample Type	 Shelby Tube	 Standard Split Spoon	 Water Level ATD	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows/ 1-3/4")
			 Modified California	 Grab Sample	 Water Level After 24-Hours											
			12-Inch Root and Disturbed Zone, 2-Inch Frost Layer at Surface													
			LEAN CLAY, Dark Brown, Moist, Topsoil					19	89	58	4.50					
5			LEAN TO FAT CLAY, Dark Brown to Light Brown, Moist, Very Stiff, Altered Loess			CL-CH	3-7-11 N= 18	20								
			LEAN CLAY, Medium Yellow Brown and Gray, Very Moist, Medium to Stiff, Peorian Loess			CL		25	88	73	1.50	0.70				
10							2-4-5 N= 9	27								
15								28	89	85	1.00					
20			SILT, Grayish Yellow Brown, Very Moist, Stiff, Peorian Loess			ML	2-3-6 N= 9	28								
25			(Yellow Brown and Gray)					27	87	79	2.00					
30			LEAN CLAY, Light Gray Brown, Very Moist, Very Stiff, Peorian Loess			CL	3-5-10 N= 15	26								
			END OF BORING AT 30 FEET FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING													



LOG OF EXPLORATORY BORING

Sheet 1 of 1

Job Number: **G7555**
Project: **Northeast Substation and Generation Plant**
Date Started: **12/2/24**
Date Completed: **12/2/24**

Boring No.: **B-9**
Boring Location: **Wayne, NE**
Drill Type: **Flight Auger**
Ground Elev.: **1481.2**

Depth in Feet	Graphic Log	Sample Type	 Shelby Tube	 Standard Split Spoon	 Water Level ATD	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows/ 1-3/4")
			 Modified California	 Grab Sample	 Water Level After 24-Hours											
		SOIL DESCRIPTION														
			12-Inch Root and Disturbed Zone, 2-Inch Frost Layer at Surface													
			LEAN TO FAT CLAY, Dark Brown to Light Brown, Very Moist, Hard, Altered Loess			CL-CH	3-14-15 N= 29	27								
5			LEAN CLAY, Yellow Brown and Gray, Moist to Very Moist, Medium, Peorian Loess			CL		17	88	51	4.50					
							1-2-3 N= 5	23								
10			SILT, Yellow Brown and Gray, Very Moist, Stiff, Peorian Loess			ML		22	90	70	2.50					
							2-4-7 N= 11	25								
20			LEAN CLAY, Yellow Brown and Gray, Very Moist, Medium to Very Stiff, Oxidized, Peorian Loess			CL		25	91	80	2.50	0.70				
							3-5-9 N= 14	27								
25								27	87	81	2.25					
30			END OF BORING AT 30 FEET FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING													



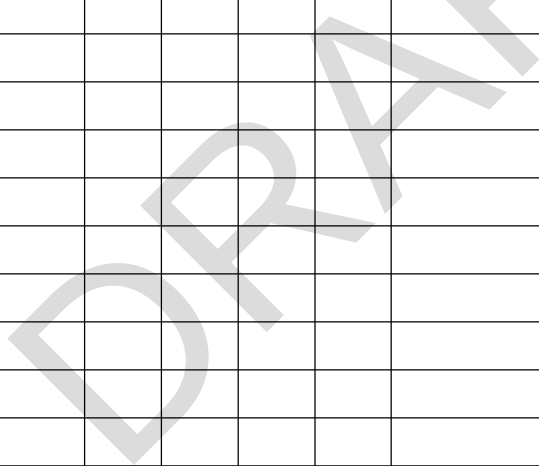
LOG OF EXPLORATORY BORING

Sheet 1 of 1

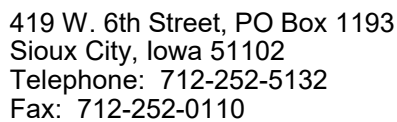
Job Number: **G7555**
Project: **Northeast Substation and Generation Plant**
Date Started: **12/2/24**
Date Completed: **12/2/24**

Boring No.: **B-10**
Boring Location: **Wayne, NE**
Drill Type: **Flight Auger**
Ground Elev.: **1487.2**

Depth in Feet	Graphic Log	Sample Type	 Shelby Tube	 Standard Split Spoon	 Water Level ATD	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows/ 1-3/4")
			 Modified California	 Grab Sample	 Water Level After 24-Hours											
		SOIL DESCRIPTION														
			12-Inch Root and Disturbed Zone, 2-Inch Frost Layer at Surface													
			LEAN TO FAT CLAY, Light Brown, Moist, Altered Loess			CL-CH		25	99	99	4.50		54	22	32	
5			LEAN CLAY, Medium Yellow Brown and Gray, Moist to Very Moist, Stiff to Very Stiff, Peorian Loess			CL	4-3-5 N= 8									
							2-3-5 N= 8	19								
								25	95	87	3.25					
10							5-5-10 N= 15	23								
15								25	91	80	2.50					
20							4-6-11 N= 17	23								
25								24	95	85	2.50	0.60				
30							3-4-8 N= 12	24								
			END OF BORING AT 30 FEET FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING													



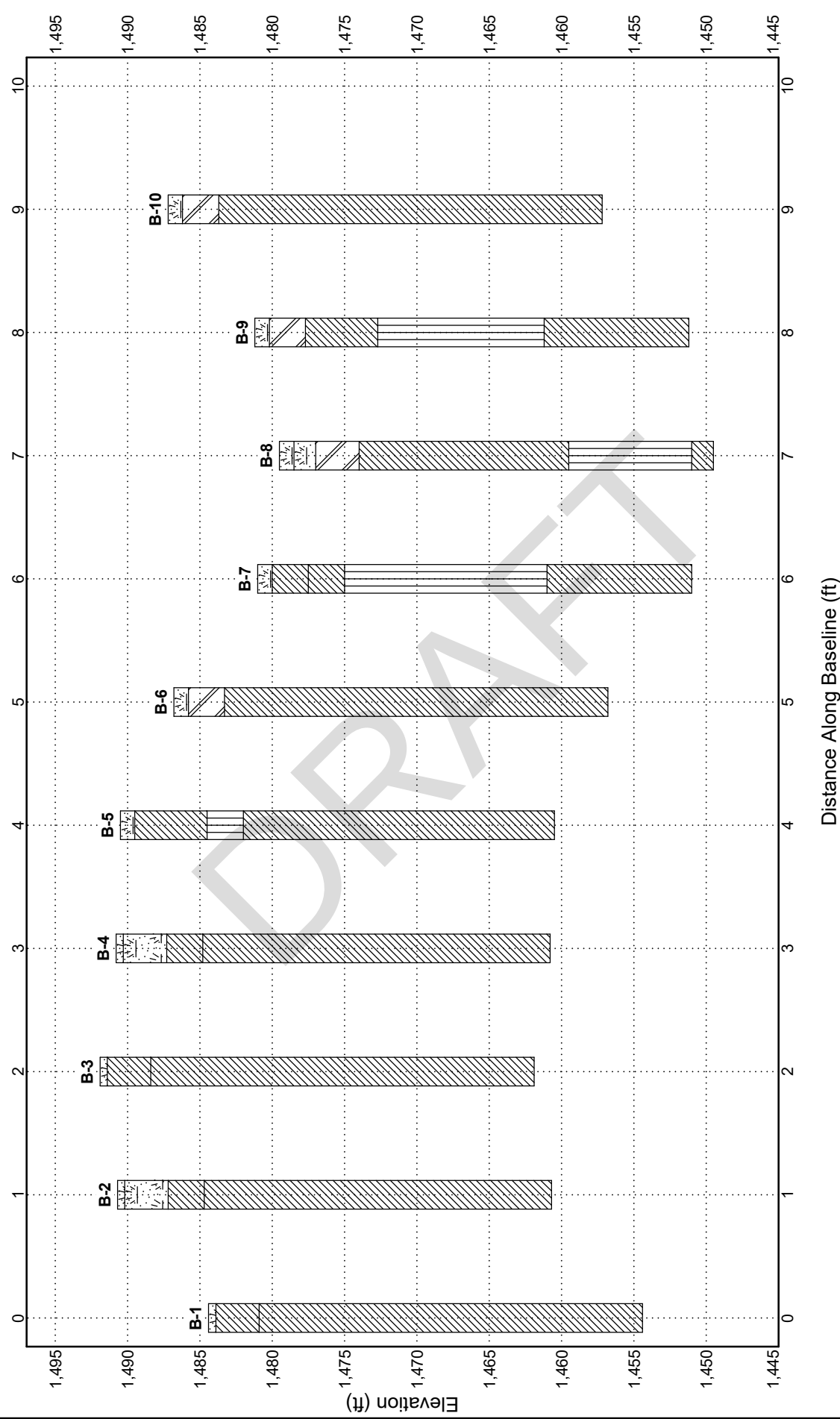
DRAFT



Project: Northeast Substation and Generation Plant

Number: G7555

BORING PROFILES



Certified Testing Services, Inc.
419 W. 6th Street, PO Box 1193
Sioux City, Iowa 51102
Telephone: 712-252-5132
Fax: 712-252-0110

Northeast Substation and Generation Plant Wayne, NE

Project Number: G7555

RESISTIVITY TEST RESULTS

Soil Resistivity Field Report

Client: KGI Wireless Project Name: Northeast Substation Date Of Test: 12/9/24

Conditions: Sunny, 42°F Soil: Lean Clay

Test Completed by: BC - CTS Test Method: ASTM G57-06

Test Instrument: Miller Model 400A Serial Number: 3448 Calibration Date: 04/2019

Calculation: Soil resistivity (Ω -m) = $191.5 \times \text{Probe Spacing (ft)} \times R(\Omega)$

Notes:

Testing Results

Test Location			Probe Spacing (ft)		Meter Reading (Ω)		Calculated Soil Resistivity (Ω -m)		
1	N-S		2	ft	13	Ω		49.79	
			5	ft	3.8	Ω		36.39	
			10	ft	1.5	Ω		28.73	
			20	ft	0.53	Ω		20.30	
			40	ft	0.29	Ω		22.22	
			60	ft	0.2	Ω		22.98	
			100	ft	0.003	Ω		0.57	
2	NE-SW		2	ft	13	Ω		49.79	
			5	ft	3.5	Ω		33.51	
			10	ft	1.5	Ω		28.73	
			20	ft	0.55	Ω		21.07	
			40	ft	0.17	Ω		13.02	
			60		0.14			16.09	
			100	ft	0.003	Ω		0.57	
3	NW-SE		2	ft	14	Ω		53.62	
			5	ft	3.6	Ω		34.47	
			10	ft	1.5	Ω		28.73	
			20	ft	0.54	Ω		20.68	
			40		0.23			17.62	
			60	ft	0.18	Ω		20.68	
			100	ft	0.002	Ω		0.38	

SOIL DESIGN INFORMATION

Boring Number	Depth (ft)	Material	Effective Unit Weight (PCF)	Internal Friction Angle (Degrees)	Cohesion (PSF)	Ultimate Passive Resistance (PSF)	Ultimate Skin Friction (PSF)	Ultimate End Bearing (PSF)	Lateral Soil Modulus (pci)	Strain @ 50%, E50	Standard Penetration Test (BPF)
B-1	0' to 3.5'	Ignore*	-	-	-	-	-	-	-	-	-
	3.5' to 13.5'	Lean Clay	108.5	10	940	8,460	470	N/A	200	0.0085	6
	13.5' to 20'	Lean Clay	111	12	1,700	15,300	850	10,300	580	0.0068	11
	20' to 30'	Lean Clay	113	12	3,100	27,900	1,550	18,600	1,020	0.005	15
B-2	0' to 9.2'	Ignore*	-	-	-	-	-	-	-	-	-
	9.2' to 25'	Lean Clay	116	12	1,400	12,600	700	8,400	460	0.0072	9
	25' to 30'	Lean Clay	109	12	3,100	27,900	1,550	18,600	1,020	0.005	13
B-3	0' to 9.4'	Ignore*	-	-	-	-	-	-	-	-	-
	9.4' to 13.5'	Lean Clay	114.7	10	940	8,460	470	5,600	200	0.0085	6
	13.5' to 30'	Lean Clay	117.1	10	1,250	11,250	625	7,500	385	0.0075	8
B-5	0' to 9'	Ignore*	-	-	-	-	-	-	-	-	-
	9' to 30'	Lean Clay	116	12	2,000	18,000	1,000	12,200	780	0.006	13

* Ignore due to site Grading and Frost

SOIL CLASSIFICATION CHART AND GENERAL NOTES

SOIL CLASSIFICATION CHART

MAJOR DIVISIONS			SYMBOLS		TYPICAL DESCRIPTIONS
			GRAPH	LETTER	
COARSE GRAINED SOILS MORE THAN 50% OF MATERIAL IS LARGER THAN NO. 200 SIEVE SIZE	GRAVEL AND GRAVELLY SOILS MORE THAN 50% OF COARSE FRACTION RETAINED ON NO. 4 SIEVE	CLEAN GRAVELS (LITTLE OR NO FINES)		GW	WELL-GRADED GRAVELS, GRAVEL - SAND MIXTURES, LITTLE OR NO FINES
				GP	POORLY-GRADED GRAVELS, GRAVEL - SAND MIXTURES, LITTLE OR NO FINES
		GRAVELS WITH FINES (APPRECIABLE AMOUNT OF FINES)		GM	SILTY GRAVELS, GRAVEL - SAND - SILT MIXTURES
				GC	CLAYEY GRAVELS, GRAVEL - SAND - CLAY MIXTURES
	SAND AND SANDY SOILS MORE THAN 50% OF COARSE FRACTION PASSING ON NO. 4 SIEVE	CLEAN SANDS (LITTLE OR NO FINES)		SW	WELL-GRADED SANDS, GRAVELLY SANDS, LITTLE OR NO FINES
				SP	POORLY-GRADED SANDS, GRAVELLY SAND, LITTLE OR NO FINES
		SANDS WITH FINES (APPRECIABLE AMOUNT OF FINES)		SM	SILTY SANDS, SAND - SILT MIXTURES
				SC	CLAYEY SANDS, SAND - CLAY MIXTURES
FINE GRAINED SOILS MORE THAN 50% OF MATERIAL IS SMALLER THAN NO. 200 SIEVE SIZE	SILTS AND CLAYS LIQUID LIMIT LESS THAN 50			ML	INORGANIC SILTS AND VERY FINE SANDS, ROCK FLOUR, SILTY OR CLAYEY FINE SANDS OR CLAYEY SILTS WITH SLIGHT PLASTICITY
				CL	INORGANIC CLAYS OF LOW TO MEDIUM PLASTICITY, GRAVELLY CLAYS, SANDY CLAYS, SILTY CLAYS, LEAN CLAYS
				OL	ORGANIC SILTS AND ORGANIC SILTY CLAYS OF LOW PLASTICITY
	SILTS AND CLAYS LIQUID LIMIT GREATER THAN 50			MH	INORGANIC SILTS, MICACEOUS OR DIATOMACEOUS FINE SAND OR SILTY SOILS
				CH	INORGANIC CLAYS OF HIGH PLASTICITY
				OH	ORGANIC CLAYS OF MEDIUM TO HIGH PLASTICITY, ORGANIC SILTS
HIGHLY ORGANIC SOILS				PT	PEAT, HUMUS, SWAMP SOILS WITH HIGH ORGANIC CONTENTS

NOTE: DUAL SYMBOLS ARE USED TO INDICATE BORDERLINE SOIL CLASSIFICATIONS

GENERAL NOTES

SAMPLING SYMBOLS:

	STANDARD PENETRATION TEST - 1 3/8" I.D., 2" O.D.
	SHELBY THIN-WALLED TUBE - 3" O.D. UNDISTURBED SAMPLE
	GRAB SAMPLE
	ROCK CORE
	AUGER SAMPLE
	NO RECOVERY

WATER LEVEL MEASUREMENT SYMBOLS:

	WATER LEVEL AT TIME OF DRILLING
	WATER LEVEL AFTER 7 DAYS

CONSISTENCY OF FINE-GRAINED SOILS	
UNCONFINED COMPRESSIVE STRENGTH, QU, PSF	CONSISTENCY
< 500	VERY SOFT
500 - 1,000	SOFT
1,001 - 2,000	MEDIUM
2,001 - 4,000	STIFF
4,001 - 8,000	VERY STIFF
8,001 - 16,000	HARD
> 16,000	VERY HARD

RELATIVE DENSITY OF COARSE GRAINED SOILS	
N-BLOWS/FT.	RELATIVE DENSITY
0 - 3	VERY LOOSE
4 - 9	LOOSE
10 - 29	MEDIUM DENSE
30 - 49	DENSE
50 - 80	VERY DENSE
80 +	EXTREMELY DENSE

RELATIVE PROPORTIONS OF SAND AND GRAVEL	
DESCRIPTIVE TERM(S) (OF COMPONENTS ALSO PRESENT IN SAMPLE)	PERCENT OF DRY WEIGHT
WITH	15 - 29
MODIFIER	> 30

GRAIN SIZE TERMINOLOGY	
MAJOR COMPONENT OF SAMPLE	SIZE RANGE
BOULDERS	OVER 12 IN. (300MM)
COBBLES	12 IN. TO 3 IN. (300 MM TO 75 MM)
GRAVEL	3 IN. TO #4 SIEVE (75MM TO 4.75MM)
SAND	#4 TO #200 SIEVE (4.75MM TO 0.075 MM)
SILT OR CLAY	PASSING #200 SIEVE (0.075MM)

RELATIVE PROPORTIONS OF FINES	
DESCRIPTIVE TERM(S) (OF COMPONENTS ALSO PRESENT IN SAMPLE)	PERCENT OF DRY WEIGHT
WITH	15 - 29
MODIFIER	> 30



ORDINANCE NO. 2026-1

AN ORDINANCE APPROVING A NON-EXCLUSIVE PUBLIC RIGHT-OF-WAY LICENSE AGREEMENT WITH ALLO ASSET ENTITY 1, LLC, A NEBRASKA LIMITED LIABILITY COMPANY (“ALLO”), ITS SUCCESSORS AND ASSIGNS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

BE IT ORDAINED BY THE MAYOR AND THE COUNCIL OF THE CITY OF WAYNE, NEBRASKA:

Section 1. ALLO is transitioning away from their traditional cable television product due to increasing costs of content and technology becoming uncompetitive for their customers; and

Section 2. This transition is requiring them to enter into an agreement (attached) to replace their existing Cable Franchise Ordinance No. 2020-20, dated November 17, 2020, which currently governs their federally-regulated Cable Service operations in Wayne and provides ALLO the authority to occupy public rights-of-way.

Section 3. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. That this ordinance shall take effect and be in full force and effect as of March 31, 2026.

PASSED AND APPROVED this _____ day of February, 2026.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

NON-EXCLUSIVE PUBLIC ROW LICENSE AGREEMENT

This Non-Exclusive Public ROW License Agreement (“**Agreement**”) is made by and between **the City of Wayne, Nebraska** (the “**City**”), and **ALLO Asset Entity 1, LLC**, a Delaware limited liability company (“**Licensee**”).

RECITALS

A. The City has jurisdiction over the use of the public rights-of-way in the City (“**Public ROW**”).

B. Licensee currently maintains, operates, and controls a fiber optic infrastructure network in the Public ROW (“**Network**”) providing broadband Internet access services and video services pursuant to an existing local cable franchise agreement (the “**Prior Franchise**”).

C. The Network consists of equipment and facilities that include aerial or underground fiber optic cables, lines, wires, or strands; underground conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; vaults; and other similar facilities (“**Network Facilities**”).

D. Licensee intends to cease offering Cable Service as defined in 47 U.S.C. § 522 in the City, but Licensee and the City desire for Licensee to continue to use and occupy the Public ROW in order to install, operate, and maintain its Network for the purposes of offering certain communications services (“**Services**”), which may include but not be limited to broadband Internet access service as defined in 47 C.F.R. § 8.1(b) (“**Broadband Internet Services**”), Voice over Internet Protocol services, and video content streaming services, but excluding multichannel video programming services that would be subject to a video services franchise and telecommunications services as defined in 47 C.F.R. § 153(53), to residents and businesses in the City (“**Customers**”).

AGREEMENT

In consideration of the mutual promises made below, the City and the Licensee agree as follows:

1. Permission to Use and Occupy.

- 1.1. Permission to Use and Occupy the Public ROW. Upon the License Commencement Date (as defined below), the City grants Licensee permission to continue to use and occupy the Public ROW (the “**License**”) for the purpose of constructing, installing, repairing, maintaining, operating, and if necessary removing (or in the case of underground Network Facilities, abandoning in place) the Network and related Network Facilities, (the “**Work**”). The City and Licensee acknowledge that existing Network Facilities of Licensee in the Public ROW as of the Agreement Date (as defined below in Section 9) were installed pursuant to the rights granted to Licensee under the Prior Franchise and such existing Network Facilities shall continue to be authorized in the Public ROW pursuant to the License granted hereunder. This Agreement and the License do not authorize Licensee to use any property other than the Public ROW as agreed

herein. Licensee's use of any other City property, including poles and conduits, would be governed under a separate Agreement regarding that use.

- 1.2. License Effectiveness. The License granted hereunder will become effective on the later of the following two dates (the "**License Commencement Date**"): (a) the date as of which both of the following have occurred: (i) Licensee has discontinued provision of facilities-based linear video services to Customers, and (ii) Licensee has notified the City in writing of the discontinuance of such video services to Customers, or (b) the Agreement Date (as defined below).
- 1.3. Subject to the City's Right to Use the Public ROW. This Agreement and the License are subject to the City's prior and continuing right to use the Public ROW, including constructing, installing, operating, maintaining, repairing, or removing sewers, water pipes, storm drains, gas pipes, utility poles, overhead and underground electric lines and related facilities, and other public utility and municipal uses.
- 1.4. Subject to Pre-Existing Property Interests. The City's grant of the License is subject to all valid pre-existing easements, restrictions, conditions, covenants, encumbrances, claims of title or other property interests that may affect the Public ROW. Licensee will obtain at its own cost and expense any permission or rights as may be necessary to accommodate such pre-existing property interests.
- 1.5. No Grant of Property Interest. The License does not grant or convey any property interest.
- 1.6. Non-Exclusive. The License is not exclusive. The City expressly reserves the right to grant licenses, permits, franchises, privileges or other rights to any other individual, corporation, partnership, limited liability company, trust, joint stock company, business trust, unincorporated association, joint venture, governmental authority or other entity of any nature whatsoever ("**Person**"), as well as the right in its own name as a city, to use the Public ROW for similar or different purposes allowed Licensee under this Agreement.

2. Licensee's Obligations.

- 2.1. Individual Permits Required. After the License Commencement Date, Licensee will obtain the City's approval of required individual encroachment, construction, and other necessary permits before placing Network Facilities in the Public ROW or other property of the City as authorized hereunder. Licensee will pay all lawful processing, field marking, engineering, and inspection fees associated with the issuance of individual permits by the City.
- 2.2. Licensee's Sole Cost and Expense. Licensee will perform the Work at its sole cost and expense.
- 2.3. Compliance with Laws. Licensee will comply with all applicable laws and regulations when performing the Work. Licensee will place its Network Facilities in conformance

with the required permits, plans, and drawings approved by the City.

- 2.4. Reasonable Care. Licensee will exercise reasonable care when performing the Work and will use commonly accepted practices and equipment to minimize the risks of personal injury, property damage, soil erosion, and pollution of surface or groundwater.
- 2.5. No Nuisance. Licensee will maintain its Network Facilities in good and safe condition so that its Network Facilities do not (a) cause a public nuisance, or (b) create a risk to the public health, safety, or welfare.
- 2.6. Repair. Licensee will promptly repair any damage to the Public ROW, City property, or private property if such damage is directly caused by Licensee's Work and no other Person is responsible for the damage (e.g., where a Person other than Licensee fails to accurately or timely locate its underground facilities as required by applicable law). Licensee will repair the damaged property to a condition equal to or better than that which existed prior to the damage, but no less than the City's standards and ordinances in effect at the time of repair. Licensee's obligation under this Section 2.6 will be limited by, and consistent with, any applicable seasonal or other restrictions on construction or restoration work provided such extension is for the shortest duration necessary to complete the repair.
- 2.7. As-Built Drawings and Maps. Licensee will maintain accurate as-built drawings and maps of its Network Facilities located in the City and will provide them to the City upon reasonable request and on a mutually agreed timetable (e.g., piecemeal following the closure of each permit, or all at once after all the Work is complete), subject to applicable confidentiality protections.
- 2.8. Network Design. Nothing in this Agreement requires Licensee to build to all areas of the City, and Licensee retains the discretion to determine the scope, location, and timing of the design and construction of the Network.
- 2.9. Relocation to Accommodate Governmental Purposes. If Licensee's then-existing Network Facilities would interfere with City's planned use of the Public ROW or other City property for a legitimate governmental purpose, such as the construction, installation, repair, maintenance, or operation of a water, sewer, or storm drain line, or a public road, curb, gutter, sidewalk, park, or recreational facility, Licensee will, upon written notice from City, relocate its Network Facilities at Licensee's own expense to such other location or locations in the Public ROW as may be mutually agreed by the parties, taking into account the needs of the City's governmental purpose and Licensee's interest in maintaining the integrity and stability of its Network. Licensee will relocate its Network Facilities within a commercially reasonable period of time agreed to by the parties, taking into account the urgency of the need for relocation, the difficulty of the relocation, and other relevant facts and circumstances, except that the Licensee shall not be required to relocate or remove its Network Facilities with less than sixty (60) days' notice.

2.10. Relocation to Accommodate Non-Governmental Purposes. If Licensee's then-existing Network Facilities would interfere with (a) City's planned use of the Public ROW for a non-governmental (e.g., commercial) purpose, or (b) a third-party's use of the Public ROW, Licensee will not be required to relocate its Network Facilities unless the following conditions are met:

(i) Licensee, in its sole discretion, determines that such relocation can be accomplished without unreasonably interfering with its ability to provide service to its customers;

(ii) Licensee is provided with reasonable advance written notice sufficient to allow for planning and execution of the relocation;

(iii) The City and/or the third party requesting the relocation agrees in writing to fully reimburse Licensee for the entire cost of relocating its Network Facilities, including but not limited to design, permitting, labor, materials, and any associated overhead;

(iv) Reimbursement of such costs shall be made to Licensee within thirty (30) days of Licensee's written request for reimbursement, which shall include reasonable documentation of such costs.

2.11. Post-Removal Restoration of the Public ROW. When removal or relocation is required under this Agreement, Licensee will, after the removal or relocation of the Network Facilities, at its own cost, repair and return the Public ROW in which the facilities were located to a safe and satisfactory condition in accordance with the City standards and ordinances in effect at the time of restoration.

3. The City's Rights and Obligations.

3.1. Emergency Removal or Relocation by the City. In the event of a public emergency that creates an imminent threat to the health, safety, or property of the City or its residents, the City may remove or relocate the applicable portions of the Network Facilities, provided the City provides as much prior notice as practicable to Licensee before making an emergency removal or relocation. In any event, the City will provide to Licensee a written description of any emergency removals or relocations of Licensee's Network Facilities as soon as practicable following such removal or relocation. Licensee will reimburse the City for its actual, reasonable, and documented costs or expenses incurred for any such work performed by the City, the direct cause of which was Licensee's construction, installation, operation, maintenance, repair, or removal of its Network Facilities. Licensee's obligation to reimburse the City under this section will be separate from Licensee's obligation to pay the License Fee (as defined below).

3.2. Non-Discrimination. The City will at all times treat Licensee in a non-discriminatory manner with regard to access, use, and occupancy of the Public ROW as compared to other non-incumbent holders of local or state franchise authority offering facilities-

based broadband Internet access services.

- 3.3. Drops: The City acknowledges and agrees that no City permits or other form of authorization shall be required for Customer drop work that is outside of the Public ROW, or drop work that does not involve the disturbance of hardscape infrastructure (e.g., concrete or asphalt).

4. **Contractors and Subcontractors.**

- 4.1. Use of Contractors and Subcontractors. Licensee may retain contractors and subcontractors to perform the Work on Licensee's behalf.
- 4.2. Contractors to be Licensed. Licensee's contractors and subcontractors used for the Work will be properly licensed under applicable law.
- 4.3. Authorized Individuals. Licensee's contractors and subcontractors may submit individual permit applications to the City on Licensee's behalf, so long as the permit applications are signed by individuals that Licensee has authorized to act on its behalf via a letter of authorization provided to the City ("**Authorized Individuals**"). The City will accept permit applications under this Agreement submitted and signed by Authorized Individuals, and will treat those applications as if they had been submitted by Licensee under this Agreement provided that the application conforms to applicable law.

5. **License Fee**. Licensee will pay the City a fee ("**License Fee**") to compensate the City for Licensee's use and occupancy of the Public ROW pursuant to the License. Licensee and the City acknowledge and agree that the License Fee provides fair and reasonable compensation for Licensee's use and occupancy of the Public ROW and other City property as authorized. The License Fee will begin accruing on the License Commencement Date and will be calculated as set forth in Section 5.1.

- 5.1. License Fee. Licensee will pay the City one and a half percent (1.5%) (the "**Revenue Percentage**") of Gross Revenues for a calendar quarter (or prorated portion thereof for any partial calendar quarter), remitted within forty five (45) days of the end of each calendar quarter ending on March 31, June, 30, September 30, and December 31, commencing on the License Commencement Date. The payment will be accompanied by a report showing the basis for the computation and such other relevant facts and/or records as may reasonably be required by the City to determine the accuracy of the payment.

- 5.1.1. As used herein, "**Gross Revenues**" means all consideration of any kind or nature, including without limitation, cash, credits, property, and in-kind contributions (services or goods) received by Licensee from Customers for Broadband Internet Services that are provided to Customers through Network Facilities located at least in part in the Public ROW.

- 5.1.2. Gross Revenues do not include:

- (i) any revenue not actually received, even if billed, such as bad debt;
- (ii) refunds, rebates, or discounts made to Customers, or the City;
- (iii) revenue received from the sale of Broadband Internet Services for resale in which the purchaser is required to collect and remit similar fees from the purchaser's customer;
- (iv) revenue derived from the provision of Broadband Internet Services to Customers where none of the Network Facilities used to provide such Broadband Internet Services are located in the Public ROW;
- (v) any forgone revenue from Licensee's provision of Broadband Internet Services to Customers at no charge if required by state law;
- (vi) any revenue derived from advertising;
- (vii) any revenue derived from services other than Broadband Internet Services, including without limitation, any revenue derived from rental of modems or other equipment used to provide or facilitate the provision of the Broadband Internet Services;
- (viii) any revenue derived from referral or marketing agreements with third party providers of online services which Licensee may make available to Customers;
- (ix) any tax of general applicability imposed upon Licensee or its Customers by the City or by any state, federal, or any other governmental entity, and required to be collected by Licensee and remitted to the taxing entity (including but not limited to sales and use tax, gross receipts tax, excise tax, utility users tax, public service tax, communications taxes, and fees not imposed by this Agreement);
- (x) any forgone revenue from Licensee's provision, in Licensee's discretion, of free or reduced cost Broadband Internet Services to any Person, including without limitation employees of Licensee; provided, however, that any forgone revenue which Licensee chooses not to receive in exchange for trades, barter, services, or other items of value will be included in Gross Revenues; and
- (xi) sales of capital assets or sales of surplus equipment.

5.2. Pass Through. Licensee may identify and collect, as a separate item on the regular bill of any Customer whose Broadband Internet Services are provided by Network Facilities located at least in part in the Public ROW, that Customer's pro rata amount of the License Fee.

5.3. Interest on Late Payments. Any payments that are due and payable under this Agreement that are not received within sixty (60) days from the specified due date will be assessed interest at an annual rate equal to the prevailing commercial prime interest rate in effect upon the due date.

5.4. Change in Law. Notwithstanding anything to the contrary herein, in the event of a change in applicable law that (a) prohibits collection by any municipality or franchising authority of any fee, including franchise fees, from any provider of video programming or communications services, including Broadband Internet Services, or (b) reduces the percentage of revenue on which the fee, including franchise fee, paid by any provider of video programming or communications services is based to a percentage that is lower than the Revenue Percentage, then Licensee will have no obligation to pay the Licensee Fee or to pay a Licensee Fee based on the Revenue Percentage, as the case may be. In the case of a reduction in the percentage of revenue on which such fees may be based, the Revenue Percentage will be commensurately reduced.

6. Defense and Indemnity.

6.1. Obligations. Licensee will defend the City, its officers, elected representatives, and employees, and indemnify them against any (a) settlement amounts approved by Licensee; and (b) damages and costs finally awarded against the indemnified party by a competent tribunal in any legal proceeding filed by a third party for property damage, personal injury, or death to the extent caused by the gross negligence or willful misconduct of Licensee or its contractors arising from this Agreement (“**Third Party Legal Proceeding**”).

6.2. Exclusions. The provisions of this Section 6 (Defense and Indemnity) will not apply to the extent the underlying allegation (a) arises from or is related to the negligence or willful misconduct of an indemnified party, or (b) is made by a City employee and covered under applicable workers’ compensation laws.

6.3. Conditions. Section 6.1 (Obligations) is conditioned on the following: (a) the City must promptly notify Licensee in writing of the Third Party Legal Proceeding and any allegation(s) that preceded the Third Party Legal Proceeding no later than fifteen (15) days after the City became aware of the Third Party Legal Proceeding; (b) the City must reasonably cooperate in the defense at Licensee’s request; and (c) the City must tender sole control of the indemnified portion of the Third Party Legal Proceeding to Licensee, subject to the following: (i) the City may appoint its own non-controlling counsel, at its own expense; and (ii) any settlement requiring the City to admit liability, pay money, or take (or refrain from taking) any action, will require the City’s prior written consent, not to be unreasonably withheld, conditioned, or delayed.

7. **Limitation of Liability.** NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION WILL BE SUBJECT TO AND MAY BE

LIMITED BY APPLICABLE LAW.

8. **Insurance.** Licensee shall obtain and maintain, at its cost, worker's compensation insurance and the following liability insurance policies insuring both Licensee and the City, and its elected and appointed officers, appointed officials, officials, agents, employees, representatives, engineers, consultants, and volunteers, as additional insureds against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges, and authority granted to Licensee: a policy of liability insurance in the minimum amount of One Million Dollars (\$1,000,000.00) for the injury or death of any number of persons per occurrence, and Two Hundred Fifty Thousand Dollars (\$250,000.00) for property damage per occurrence. Such coverage shall name the City as an additional insured, as its interest may appear, for all acts and omissions of Licensee, its agents and contractors arising out of or in any way connected with the permit and their use and occupation of the Public ROW. All such policies and certificates in insurance shall be issued by companies authorized to do business in the State of Nebraska and provide that any such policy shall not be cancelled until thirty (30) days' written notice of such cancellation shall have been filed with the City Clerk.
9. **Term.** This Agreement is effective on the later of (a) the date the last party to sign executes this Agreement, and (b) the date on which any implementing ordinance becomes effective in accordance with its terms and state law ("**Agreement Date**"). The Agreement will expire automatically on the twentieth anniversary of the Agreement Date ("**Original Term**"), unless earlier terminated in accordance with the provisions herein. Thereafter, the Agreement will automatically renew for successive 5-year terms (each a "**Renewal Term**") unless a party provides written notice to the other party of its intent not to renew at least six months before the expiration of the Original Term or a Renewal Term, as applicable.
10. **Termination.**
- 10.1. **Termination by the City.** The City may terminate this Agreement if Licensee is in material breach of the Agreement, provided that the City must first provide Licensee written notice of the breach and one hundred eighty (180) days to cure, unless the cure cannot reasonably be accomplished in that time period, in which case Licensee must commence its efforts to cure within that time period and the cure period will continue as long as such diligent efforts continue. No termination under this paragraph will be effective until the relevant cure period has expired.
- 10.2. **Termination by Licensee.** Licensee may terminate this Agreement for convenience upon one hundred eighty (180) days' written notice to the City.
11. **Assignment.** Except as set forth below, neither party may assign or transfer its rights or obligations under this Agreement, in whole or part, to a third party, without the written consent of the other party. Any agreed upon assignee will take the place of the assigning party, and the assigning party will be released from all of its rights and obligations upon such assignment.

11.1. Notwithstanding the foregoing, Licensee may at any time on written notice to the

City, assign this Agreement or any or all of its rights and obligations under this Agreement:

- 11.1.1. to any Affiliate (as defined below) of Licensee;
 - 11.1.2. to any successor in interest of Licensee's business operations in the City in connection with any merger, acquisition, or similar transaction if Licensee determines after a reasonable investigation that the successor in interest has the resources and ability to fulfill the obligations of this Agreement; or
 - 11.1.3. to any purchaser of all or substantially all of Licensee's Network Facilities in the City if Licensee determines after a reasonable investigation that the purchaser has the resources and ability to fulfill the obligations of this Agreement.
- 11.2. Following any assignment of this Agreement to an Affiliate, Licensee will remain responsible for such Affiliate's performance under the terms of this Agreement. For purposes of this section, (a) "Affiliate" means any Person that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Licensee; and (b) "control" means, with respect to: (i) a U.S. corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof, or (ii) a non-U.S. corporation, if the voting power to elect directors thereof is less than fifty percent (50%), the maximum amount allowed by applicable law; and (iii) any other Person, fifty percent (50%) or more ownership interest in said Person, or the power to direct the management of such Person.

12. Notice. All notices related to this Agreement will be in writing and sent, if to Licensee to the notice addresses set forth below in this Section. Notices are effective (a) when delivered in person, (b) upon confirmation of a receipt when transmitted by electronic mail, (c) on the next business day if transmitted by registered or certified mail, postage prepaid (with confirmation of delivery), (d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or (e) three (3) days after the date of mailing, whichever is earlier. Any regular notice or information required or permitted to be given to the parties under this Agreement may be sent to the following addresses unless otherwise specified:

Attn: City Administrator
PO Box 8
Wayne, NE 68787
Email: wblecke@cityofwayne.org

ALLO Asset Entity 1, LLC
Attn: Legal Dept
330 S 21st St
Lincoln, NE 68510
Legal@allofiber.com

13. General Provisions. This Agreement is governed by the laws of the state where the City is located. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control. This Agreement sets out all terms agreed between the parties and as of the License Commencement Date supersedes and replaces the Prior Franchise and all other previous or contemporaneous agreements between the parties relating to its subject matter. This Agreement, including any exhibits, constitutes the entire agreement between the parties related to this subject matter, and any change to its terms must be in writing and signed by the parties. The parties may execute this Agreement in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. Each party to this Agreement agrees that Licensee may use electronic signatures.

Signed by authorized representatives of the parties on the dates written below.

The City:	Licensee:
Wayne, Nebraska	ALLO Asset Entity 1, LLC
By:_____	By:_____
Printed Name:	Printed Name:
Title:	Title:
Date:	Date: