

PROPOSED:

**ADAMS GLASS BUILDING DEMOLITION
PROJECT NO.:25-004**

LETTING DATE: April 22, 2025

**THE CITY OF SHELBYVILLE
BOARD OF PUBLIC WORKS & SAFETY
44 WEST WASHINGTON STREET
SHELBYVILLE, INDIANA**



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SECTION I
INVITATION TO BIDDERS

NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN THAT THE BOARD OF PUBLIC WORKS & SAFETY OF THE CITY OF SHELBYVILLE, INDIANA WILL RECEIVE SEALED BIDS FOR THE BELOW-DESCRIBED WORK AT THE LOCATION INDICATED.

ADAMS GLASS BUILDING DEMOLITION PROJECT NO.:25-004

The City of Shelbyville, Indiana invites bids for the demolition for the building at 201 South Harrison Street, 13 West Broadway Street, and 15-17 West Broadway Street in Shelbyville, IN. Pursuant to I.C. 36-7-9 et seq. Work includes the demolition and legal disposal of demolition debris of the building structure.

Copies of the contract bid documents may be obtained at the Shelbyville Clerk-Treasurer's office in Shelbyville City Hall, 44 W. Washington Street, Shelbyville, IN 46176 between the hours of 8:00 a.m. and 4:00 p.m. or via email request to tcomstock@cityofshelbyvillein.com starting Tuesday, March 31, 2025. A \$10 nonrefundable fee is required for hardcopies.

Sealed bids will be received in the office of the Clerk-Treasurer until 4:00 pm on **Monday, April 21, 2025**. Any bids received later than the designated time will be returned unopened. All bids received shall be opened publicly and read aloud at the Board of Public Works meeting to be held at 44 W. Washington St. in the City Council Chambers of the City of Shelbyville, Indiana Tuesday, April 22, 2025 at 8:30 am. The Board of Public Works reserves the right to accept or reject any and all bids.

All bids shall be submitted on forms prescribed by the State Board of Accounts, which shall include, but not be limited to a financial statement, a statement of experience, a proposed plan or plans for performing the public work, the equipment available for the performance of the work and a non-collusion affidavit. A bid bond or a certified check will be required in the amount of 5% of the total bid.

Bids shall be submitted in a separate sealed envelope marked:

**BID FOR: Adams Glass Building Demolition
Project No.: 25-004
City of Shelbyville, Indiana**

Each Bidder is responsible for reading and being thoroughly familiar with the Contract Bid Documents and Specifications, which includes a Structural Assessment. The failure or omission of any Bidder to do any of the foregoing shall in no way relieve any Bidder from any obligation with respect of the Bid.

Each Bidder is invited to a Pre-Bid meeting with site inspection / building access on Wednesday, April 9, 2025 starting at 1:00 pm through 3:30 pm. The City will provide interior access to the building along with additional views of the structure.

No Bidder may withdraw his bid within a period of 60 days following the date set for the receiving of bids. Bids may be held by the Board of Public Works & Safety for a period not to exceed thirty (30) days, from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of the bidder prior to awarding the contract.

The Board of Public Works & Safety reserves the right to reject any or all bids, or to accept

any bid or bids, or to make such combination of proposals as may seem desirable, and to waive any and all informalities or minor defects in the bidding. The Board of Public Works & Safety may award bids based upon selection of any proposal line items as well as mandatory alternatives. Bids shall be awarded to the bidder or bidders deemed to be the lowest and most responsive and responsible by the Board of Public Works & Safety.

BID SECURITY: Each bid shall be accompanied by a bid guaranty conforming to the Indiana Revised code. Said bid guaranty shall be a certified check in an amount equal to five percent (5%) of the BID; or, a bond for five percent (5%) of the BID as surety for the execution of the contract. The Bid bond shall be executed by an incorporated surety company in good standing and qualified to do business in the State of Indiana and whose name appears on the most current Treasury Department Circular No. 570. The bid bond form is included in the contract bid documents. Should any BID be rejected, such certified check or bond shall be forthwith returned to the BIDDER, and should any BID be accepted, such certified check or bond will be returned upon the proper execution and securing of the contract. When the contract is executed, the certified check or bid bond of all unsuccessful BIDDERS will be returned.

BONDS: A Performance & Payment Bond in the amount of 100 percent of the Contract price will be required from the Contractor to whom the work is awarded prior to the execution of the contract. All said bonds and liability insurance shall remain in effect for a period of twelve (12) months following completion and Board of Public Works and Safety acceptance of construction. The award of the contract is subject to all approvals required by local, state and federal agencies. Upon securing of all approvals, the successful bidder shall receive a "Notice to Proceed" with construction and said contractor shall begin construction within five (5) days of receipt of such notice, and shall complete the project pursuant to the contract documents.

Failure to execute a contract and to furnish a performance and payment bond, as hereinafter set out will be cause for forfeiture to the OWNER of the amount of money represented by the certified check or bidder's bond, as and for liquidated damages. A conditional or qualified Bid will not be accepted.

Bidders shall be required to meet all applicable State requirements including but not limited to those in IC 36-1-12.

Board of Public Works & Safety, City of Shelbyville, Indiana

SECTION II
INSTRUCTIONS TO BIDDERS

INSTRUCTIONS TO BIDDERS

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ARTICLE 1 - DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof:
- A. *Bidder*--The individual or entity who submits a Bid directly to OWNER.
 - B. *Issuing Office*--The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
 - C. *Successful Bidder*--The lowest responsible Bidder submitting a responsive Bid to whom OWNER (on the basis of OWNER's evaluation 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 or Invitation to Bid may be obtained from the Issuing Office.
- 2.02 Complete sets of Bidding Documents must 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.
- 2.02 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 confer a license or grant for any other use.

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

3.01 N/A

3.02 To demonstrate Bidder's qualifications to perform the work, Bidder shall submit with their bid all the information requested in the Bid Documents. Bidders shall submit satisfactory evidence that they have a practical knowledge of the particular work bid upon, and that they have the necessary financial resources to complete the proposed work. Each Bidder shall execute completely and accurately Questionnaire Form No. 96 of the Indiana State Board of Accounts as provided in Section V of the Bid Documents. The information contained therein shall be used by the OWNER to determine the ability, experience, and capital resources of the Bidder. In determining the Bidder's qualifications, the following factors will be considered:

- a. Whether the Bidder maintains a permanent place of business;
- b. Has adequate plant and equipment to do the work properly and expeditiously;
- c. Has the necessary financial resources to meet all obligations incident to the work; and
- d. Has appropriate technical experience.

Each Bidder may be required to show that previous work performed has been handled in such a manner that there are no just and proper claims pending against such work. No Bid will be accepted which is submitted by a Bidder who is engaged in any work which would impair their ability to finance the work covered by such Bid or to provide suitable equipment for its proper prosecution and completion.

ARTICLE 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE

4.01 *Subsurface and Physical Conditions*

- A. The Supplementary Conditions identify:
 - 1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Bidding Documents.
 - 2. Those drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Bidding Documents.
- B. Copies of reports and drawings referenced in paragraph 4.01.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which Bidder is entitled to rely as provided in paragraph 4.02 of the General Conditions has been identified and established in paragraph 4.02 of 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.

4.02 *Underground Facilities*

- A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site is based upon information and data furnished to OWNER and ENGINEER by owners of such Underground Facilities, including OWNER, or others.

4.03 *Hazardous Environmental Condition*

- A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that ENGINEER has used in preparing the Bidding Documents.
- B. Copies of reports and drawings referenced in paragraph 4.03.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which Bidder is entitled to rely as provided in paragraph 4.06 of the General Conditions has been identified and established in paragraph 4.06 of 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.

4.04 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 conditions appear in paragraphs 4.02, 4.03, and 4.04 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 4.06 of the General Conditions.

4.05 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.

4.06 Reference is made to Article 7 of the General Conditions for the identification of the general nature of other work that is to be performed at the Site by OWNER or others (such as utilities and other prime contractors) that relates to the Work for which a Bid is to be submitted. On request, OWNER will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such other work.

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

- A. Examine and carefully study each of the Bidding Documents, including any Addenda and the other related data identified in the Bidding Documents. Bidders shall examine the bid documents and thoroughly and fully inform themselves of the construction hazards procedures, labor, conditions and factors, which could affect the prosecution and completion of the work. Such considerations shall include, but are not limited to; the conditions of existing structures and facilities which may be affected by the proposed work, the procedure necessary for maintenance of uninterrupted operation of existing facilities, the availability and cost of labor and methods for transporting, handling, and storage of materials and equipment. All such factors shall be properly investigated and considered in the preparation of the Bidder's proposal. There will be no subsequent financial adjustment to any contract for lack of such prior information or its effects on the cost of the work.
- B. Bidders shall visit the site of the work thoroughly and fully inform themselves of the construction hazards procedures, labor, conditions and factors, which could affect the prosecution and completion of the work. Such considerations shall include, but are not limited to; the conditions of existing structures and facilities which may be affected by the proposed work, the procedure necessary for maintenance of uninterrupted operation of existing facilities, the availability and cost of labor and methods for transporting, handling, and storage of materials and equipment. All such factors shall be properly investigated and considered in the preparation of the Bidder's proposal. There will be no subsequent financial adjustment to any contract for lack of such prior information or its effects on the cost of the work.
- C. Become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, or performance of the Work;
- D. Carefully study all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and carefully study all reports and drawings of a Hazardous Environmental Condition, if any, at the Site which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions;
- E. Obtain and carefully study (or assume responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;

- F. Agree at the time of submitting its Bid that 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 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. Correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;
 - I. Promptly give ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents. Interpretation of the proposed contract documents will be made only by written addendum. A copy of each addendum will be mailed or delivered to each person obtaining a set of contract documents from the City Engineer. The Owner will not be responsible for any other explanations or interpretations of the proposed contract documents; and
 - J. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.
- 4.08 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by ENGINEER are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 5 - PRE-BID CONFERENCE

- 5.01 The Pre-Bid meeting for this project will be from 1:00 to 3:00 pm, Wednesday April 9, 2025, in the Council Chambers on the 2nd Floor of City Hall, 44 W Washington St, Shelbyville, IN. The Pre-bid meeting will be followed up with the Site Inspection with building access.

ARTICLE 6 - SITE AND OTHER AREAS

- 6.01 The Site is identified in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by OWNER unless otherwise provided in the Bidding Documents.

ARTICLE 7 - INTERPRETATIONS AND ADDENDA

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to the ENGINEER in writing. Questions can be emailed to tcomstock@cityofshelbyvillein.com. 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 four 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 as deemed advisable by OWNER or ENGINEER.

ARTICLE 8 - BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable without condition to the City of Shelbyville, Indiana (OWNER) in an amount of 5% of Bidder's maximum Bid price and in the form of a certified or bank check drawn on an acceptable bank, or a Bid Bond [on the form attached] issued by a surety meeting the requirements of paragraphs 5.01 and 5.02 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 securities and bonds 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 in the form prescribed and furnish the required legally responsible contract sureties within 3 days after the Notice of Award, OWNER may annul the Notice of Award and the Bid security of that Bidder will be forfeited to the OWNER as liquidated damages. The Bid security of other Bidders whom OWNER believes to have a reasonable chance of receiving the award may be retained by OWNER for a period not to exceed ninety days pending the execution of the Contract and required Bonds by the successful Bidder, whereupon Bid security furnished by such Bidders will be returned.
- 8.03 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned 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 (a) Substantially Completed and (b) also 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, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or those substitute or "or-equal" materials and equipment approved by ENGINEER and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function and quality to be met by any proposed substitute or "or-equal" item. No item of material or equipment will be considered by ENGINEER as a substitute or "or-equal" unless written request for approval has been submitted by Bidder and has been received by ENGINEER at least 5 days prior to the date for receipt of Bids. Each such request shall conform to requirements of paragraph 6.05 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 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 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, in which case apparent Successful Bidder shall submit an acceptable substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and OWNER may consider such price adjustment in evaluating Bids and making the contract award.
- 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 6.06 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 Bid form is included with the Bidding Documents. Additional copies may be obtained from ENGINEER.
- 13.02 All blanks on the Bid form shall be completed by legibly printing in ink or by typewriter and the Bid signed. The Bid form or other pages shall **not** be removed from the Contract Bid Documents. A Bid price shall be indicated for each [section, Bid item, alternative, adjustment unit price item, and unit price item] listed therein, or the words "No Bid," "No Change," or "Not Applicable" entered. All addenda to the Contract Bid Documents shall be properly signed by the bidder and shall accompany the Contract Bid Documents when submitted. No alteration in any Bid, or in the Contract Bid Documents on which it is submitted, shall be made by any person after the Bid has been submitted by the Bidder.
- 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. 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 below the signature.

- 13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner or other authorized representative (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown below the signature.
- 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 must be shown below the signature.
- 13.06 A Bid by an individual shall show the Bidder's name and full official business address. Each Bidder shall sign their proposal using their usual signature.
- 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 must be shown below the signature.
- 13.08 All names shall be typed or printed in ink below the signatures.
- 13.09 A bid by a person who affixes to their signature the word "president" or "secretary" or "agent" or other designation without disclosing their principal may be held to be the bid of the individual signing. When requested by the Owner, satisfactory evidence of the authority of the person signing shall be furnished.
- 13.10 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid form.
- 13.11 The address and telephone number for communications regarding the Bid shall be shown.
- 13.12 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 for the state of the Project, if any, shall also be shown on the Bid form.
- 13.13 No Bidder shall submit more than one Bid. Two Bids under different names will not be accepted from one individual, firm, or association.

ARTICLE 14 - BASIS OF BID; EVALUATION OF BIDS

14.01 *Lump Sum* (Not Applicable)

- A. ~~Bidders shall submit a Bid on a lump sum basis as set forth in the Bid form.~~

14.01 *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 determined as the sum of the products of the estimated quantity of each item and the unit price Bid for the item. The final quantities and Contract Price will be determined in accordance with paragraph 11.03 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.

- 14.02 The Bid price shall include such amounts as the Bidder deems proper for overhead and profit on account of cash allowances, if any, named in the Contract Documents as provided in paragraph 11.02 of the General Conditions.
- 14.03 Bid prices will be compared after adjusting for differences in the time designated by Bidders for Substantial Completion. The adjusting amount will be determined at the rate set forth in the Contract Documents for liquidated damages for failing to achieve Substantial Completion for each day before or after the desired date appearing in Article 9.

ARTICLE 15 - SUBMITTAL OF BID

- 15.01 Each prospective Bidder is furnished one copy of the Bidding Documents with the Bid Form (Section III), Bid Bond (Section IV), State Form 96 (Section V), and Non-Collusion Affidavit (Section VI) included therein. The Bid Form, Bid Bond, State Form 96, and Non-Collusion Affidavit shall be properly completed, executed, and submitted. The entire set of Bidding Documents shall be submitted, however, Sections X through XVII of the Bidding Documents will be completed and executed only by the successful bidder to whom the contract is awarded after award of contract by the Board of Public Works and Safety.
- 15.02 Pursuant to the "Invitation to Bidders", Bid shall be submitted no later than the date and time prescribed and at the place indicated and shall be enclosed in an opaque sealed envelope plainly marked 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 envelope plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid shall be addressed to:

Clerk-Treasurer's Office
City of Shelbyville
44 W. Washington Street
Shelbyville, Indiana 46176

Any bids received after the designated time will be returned unopened.

- 15.03 For projects with Alternate Bids, Bidders are not required to submit bids for each Alternate. Bidders are required to submit all Bidding Documents for each Alternate Bid submitted.

ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID

- 16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the 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.
- 16.02 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.
- 16.03 No Bidder may withdraw their Bid for a period of sixty days after the date and hour set for the opening. The Bid and Bid Security of other Bidders whom OWNER believes to have a reasonable chance of receiving the award may not withdraw their Bids for a period of ninety days after the opening date.

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. The OWNER reserves the right to accept the Bid submitted by the lowest responsible and responsive Bidder; to reject any or all Bids; and to waive irregularities or informalities in any Bid. Bids received after the specified time of closing will be returned unopened. The acceptance of a Bid will be the Notice of Award (Section X of the Bidding Documents) in writing signed by a duly authorized representative of the Board of Public Works & Safety, and no other act shall constitute acceptance of a Bid. The acceptance of a Bid shall bind the successful Bidder to execute the Contract and to be responsible for liquidated damages as provided in Articles 8.00 and 10.00.

ARTICLE 19 - 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 be non-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 to perform the Work in accordance with the Contract Documents.
- 19.06 If the Contract is to be awarded, OWNER will award the Contract to the Bidder whose Bid is in the best interests of the Project.
- 19.07 For projects with alternate pavement bids, OWNER may consider the expected life of the pavement type when comparing Bids.

ARTICLE 20 - CONTRACT SECURITY AND INSURANCE

20.01 Article 5 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. The Contractor will be required to carry insurance throughout the lifetime of the Contract, as provided in Article 5 of the General Conditions, the amount of insurance of the various types being not less than the amounts specified therein. When the Successful Bidder delivers the executed Agreement to OWNER, it must be accompanied by such Bonds and insurance.

ARTICLE 21 - SIGNING OF AGREEMENT

21.01 When OWNER gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within 3 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to OWNER. Within 2 days thereafter, OWNER shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification. Failure or neglect on the part of the Successful Bidder to execute the Contract as required shall constitute a breach of the agreement effected by the acceptance of the Bid. The amount of the Bid Bond accompanying the Bid of such Bidder shall be retained by the OWNER as liquidated damages for such breach. In the event that any Bidder whose Bid shall be accepted shall fail or refuse to execute the Contract as hereinbefore provided, the Board of Public Works & Safety may at their option, determine that such Bidder has abandoned the Contract and thereupon their Bid and the acceptance thereof shall be null and void and the OWNER shall be entitled to liquidated damages as above provided.

ARTICLE 22 – TAXES AND PERMITS

- 22.01 OWNER is exempt from state sales and use taxes on materials and equipment to be incorporated in the Work. Said taxes shall not be included in the Bid. Refer to paragraph 6.07 of the Supplementary Conditions for additional information.
- 22.02 Contractor shall be responsible for obtaining all necessary permits. Provisions concerning obtaining permits are set forth in the General Conditions.
- 22.03 Provisions concerning paying all taxes other than sales or use taxes are set forth in the General Conditions.

ARTICLE 23 - RETAINAGE

23.01 Provisions concerning retainage are set forth in the Agreement.

ARTICLE 24 – CONTRACTS TO BE ASSIGNED - N/A.

ARTICLE 25 – PAYMENT

25.01 Provisions concerning Payment are set forth in the Agreement.

SECTION III

BID FORM

BID FORM

**PROJECT IDENTIFICATION: ADAMS GLASS BUILDING DEMOLITION
CONTRACT IDENTIFICATION AND NUMBER: 25-004**

THIS BID IS SUBMITTED TO THE CITY OF SHELBYVILLE, INDIANA

1.01 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.

2.01 Bidder accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. The Bid will remain subject to acceptance for 14 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of OWNER.

3.01 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all which is hereby acknowledged.

<u>Addendum No.</u>	<u>Addendum Date</u>
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site 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. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.

D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and (2) reports and drawings of a Hazardous Environmental Condition, if any, which has been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions.

E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.

F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times 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 correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
 - I. Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by ENGINEER is acceptable to Bidder.
 - J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- 4.01** Bidder further represents that 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 agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.
- 5.01** Bidder will complete the Work in accordance with the Contract Documents for the following price(s): **see attached Contract Item and Unit Price Sheet.**
- 6.01** Bidder agrees that the Work will be completed in accordance with the time set forward in 4.02 of the Agreement.
- 6.02** Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified above, which shall be stated in the Agreement.
- 7.01** The following documents are attached to and made a condition of this Bid:
- A. Required Bid security in the form of certified check or bidder's bond.
 - B. A complete Form 96 under oath.
 - C. Form 96 A or equivalent financial statement.
 - D. Non-Collusion Affidavit
 - E. Subcontractor and Supplier List.
- 8.01** The terms used in this Bid with initial capital letters have the meanings indicated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

SUBMITTED on _____, 20____.

State Contractor License No. _____. (If applicable)

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____ (SEAL)
(Individual's signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

A Partnership

Partnership Name: _____ (SEAL)

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Business address: _____

Phone No.: _____ FAX No.: _____

A Corporation

Corporation Name: _____ (SEAL)

State of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability): _____

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(CORPORATE SEAL)

Attest _____
(Signature of Corporate Secretary)

Business address: _____

Phone No.: _____ FAX No.: _____

Date of Qualification to do business is _____.

A Joint Venture

Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ FAX No.: _____

Phone and FAX Number, and Address for receipt of official communications:

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

SECTION IV

BID BOND

BID BOND

BIDDER (Name and Address):

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

OWNER:

City of Shelbyville
44 W. Washington Street
Shelbyville, Indiana 46176

BID

BID DUE DATE:

PROJECT (Brief Description Including Location):

BOND

BOND NUMBER: _____

DATE (Not later than Bid due date): _____

PENAL SUM: _____ (Words) _____ (Figures)

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER

SURETY

_____(Seal)
Bidder's Name and Corporate Seal

_____(Seal)
Surety's Name and Corporate Seal

By: _____
Signature and Title

By: _____
Signature and Title
(Attach Power of Attorney)

Attest: _____
Signature and Title

Attest: _____
Signature and Title

- Note: (1) Above addresses are to be used for giving required notice.
(2) Any singular reference to Bidder, Surety, OWNER or other party shall be considered plural where applicable.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to OWNER upon default of Bidder any difference between the total amount of Bidder's Bid and the total amount of the Bid of the next lowest, responsible and responsive Bidder as determined by OWNER for the Work required by the Contract Documents, provided that:

1.1. If there is no such next lowest, responsible and responsive Bidder, and OWNER does not abandon the Project, then Bidder and Surety shall pay to OWNER the penal sum set forth on the face of this Bond, and

1.2. In no event shall Bidder's and Surety's obligation hereunder exceed the penal sum set forth on the face of this Bond.

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 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 by 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 and 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 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 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.

SECTION V
INDIANA STATE FORM 96

BID OF

FOR
PUBLIC WORKS PROJECTS
OF

CITY OF SHELBYVILLE, INDIANA

Filed _____, _____

Action taken _____

CONTRACTORS BID FOR PUBLIC WORKS

PART 1

(To be completed for all bids)
(Please type or print)

Date: _____

- 1. Governmental Unit (Owner): City of Shelbyville, Indiana
- 2. County: Shelby
- 3. Bidder (Firm): _____
 Address: _____
 City/State: _____
- 4. Telephone Number: _____
- 5. Agent of Bidder (if Applicable): _____

Pursuant to notices given, the undersigned offers to furnish labor and/or material necessary to complete the public works project Adam Glass Building Demolition, Project No.: 25-004 for City of Shelbyville, Indiana in accordance with plans and specifications prepared by the City Engineer and dated _____ the sum of: _____ \$ _____

The undersigned further agrees to furnish a bond or certified check wit this bid for an amount specified in the notice of the letting. If alternative bids apply, the undersigned submits a proposal for each in accordance with the notice. Any addendums attached will be specifically referenced at the applicable page.

If additional units of material included in the contract are needed, the cost of units must be the same as that shown in the original contract if accepted by the Governmental Unit. If the bid is to be awarded on a unit basis, the itemization of units shall be shown on a separate attachment.

The Contractor and his subcontractors, if any, shall not discriminate against or intimidate any employee, or applicant for employment, to be employed in the performance of this contract, with respect to any matter directly or indirectly related to employment because of race, religion, color, sex, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

CERTIFICATION OF USE OF UNITED STATES STEEL PRODUCTS (If applicable)

I, the undersigned bidder or agent as a contractor on a public works project, understand my statutory obligation to use steel products made in the United States. I.C. 5-16-8-2. I hereby certify that I and all subcontractors employed by me for this project will use U.S. steel products on this project if awarded. I understand that violations hereunder may result in forfeiture of contractual payments.

ACCEPTANCE

The above bid is accepted this _____ day of _____, _____, subject to the following conditions: _____

Contracting Authority Members:

_____	_____
_____	_____
_____	_____

PART II

(Complete sections I, II, III, and IV for all state and local public works projects as required by statutes if project is one hundred thousand dollars (\$100,000) or more. (IC 36 -1-12-4))

Governmental Unit: City of Shelbyville

Bidder (Firm): _____

Date: _____

These statements to be submitted under oath by each bidder with and as a part of his bid. Attach additional pages for each section as needed.

SECTION I EXPERIENCE QUESTIONNAIRE

1. What public works projects has your organization completed for the period of one (1) year prior to the date of the current bid?

Contract Amount	Class of Work	When Completed	Name and Address of Owner

2. What public works projects are now in process of construction by your organization?

Contract Amount	Class of Work	When Completed	Name and Address of Owner

3. Have you ever failed to complete any work awarded to you? _____ If so, where and why?

4. List references from private firms for which you have performed work.

Section II Plan and Equipment Questionnaire

1. Explain your plan or layout for performing proposed work. (Examples could include a narrative of when you could begin work, completed the project, number of workers, etc. and any other information which you believe would enable the governmental unit consider your bid.)

2. If you intend to sublet any portion of the work, state the name and address of each subcontractor, equipment to be used by the subcontractor, and whether you expect to require a bond. However, if you are unable to currently provide a listing, please understand, a listing must be provided prior to contract approval.

3. What equipment do you intend to use for the proposed project? Any equipment to be used by subcontractors may also be required to be listed by the governmental unit.

4. Have you entered into contracts or received offers for all materials which substantiate the prices used in preparing your proposal? Otherwise, please explain the rationale used which would corroborate the prices listed.

SECTION III CONTRACTOR'S FINANCIAL STATEMENT

Attachment of bidder's financial statement is mandatory. Any bid submitted without said financial statement as required by statute shall therefore be rendered invalid. The financial statement provided hereunder to the governing body awarding the contract must be specific enough in detail so that said governing body can make a proper determination of the bidder's capability for completing the project if awarded.

SECTION IV OATH AND AFFIRMATION

I affirm under the penalties of perjury that the foregoing facts and information contained in the foregoing bid for public works are true and correct to the best of my knowledge and belief.

Dated at _____ this _____ day of _____, _____

(Name of Organization)

By: _____

(Title of Person Signing)

ACKNOWLEDGMENT

STATE OF: _____)

COUNTY OF _____)

_____ being duly sworn, deposes and says that he is

_____ of the above _____
(Title) (Name of Organization)

and that the answers to the questions in the foregoing questionnaires and all statements therein contained are true and correct.

Subscribed and sworn to before me this _____ day of _____, _____

(Notary Public)

My Commission Expires: _____

County of Residence: _____

SECTION VI
NON-COLLUSION AFFIDAVIT

SECTION VII
GENERAL CONDITIONS

GENERAL CONDITIONS

FOR

CONSTRUCTION

INDEX TO THE ARTICLES OF THE GENERAL CONDITIONS

- | | |
|-----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| 1. DEFINITIONS | 12. CHANGE OF CONTRACT TIME |
| 2. EXECUTION OF DOCUMENTS | 13. LIQUIDATED DAMAGES |
| 3. CORRELATION, INTERPRETATION AND INTENT OF DOCUMENTS | 14. WARRANTY AND GUARANTEE: TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK. |
| 4. AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS | 15. PAYMENTS AND COMPLETION. |
| 5. BONDS AND INSURANCE | 16. SUSPENSION OF WORK AND TERMINATION. |
| 6. CONTRACTOR'S RESPONSIBILITIES | 17. ARBITRATION. |
| 7. WORK BY OTHERS | 18. ENVIRONMENTAL REQUIREMENTS. |
| 8. OWNER'S RESPONSIBILITIES | 19. MISCELLANEOUS. |
| 9. ENGINEER'S RESPONSIBILITIES DURING CONSTRUCTION | |
| 10. CHANGES IN THE WORK | |
| 11. CHANGES IN CONTRACT PRICE | |

1.00. DEFINITIONS.

The Owner, the Contractor and the Engineer, are those mentioned as such in the Agreement. They are treated throughout the Contract Documents as if each were of the singular number and masculine gender. Wherever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

- 1.01. ADDENDA.** Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, by additions, deletions, clarifications, or corrections. Addenda will become part of the Contract Documents when the Agreement is executed.
- 1.02. AGREEMENT.** The contractual agreement between the Contractor and the Owner.
- 1.03. APPLICATION FOR PAYMENT.** The form used by Contractor in requesting payments, including accompanying documentation required by the Contract Documents.
- 1.04. BID.** The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
- 1.05. BIDDER.** Any person, firm, or corporation submitting a Bid for the Work.
- 1.06. BOARD.** The City of Shelbyville Board of Public Works.
- 1.07. BONDS.** Bid, performance, and payment bonds and other instruments of security, furnished by the Contractor and his surety in accordance with the Contract Documents.
- 1.08. CHANGE ORDER.** A written order to the Contractor signed by the Owner authorizing an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after execution of the Agreement.
- 1.09. CONTRACT.** The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Engineer and the Contractor, (2) between the

Owner and a Subcontractor or Subsubcontractor, or (3) between any persons or entities other than the Owner and Contractor.

- 1.10. CONTRACT DOCUMENTS.** The Invitation to Bidders, Instructions to Bidders, Contractor's Bid (completed Bid Form), Bid Bond, State Form 96, Non-Collusion Affidavit, Common Scale of Wages, these General Conditions, the Supplementary or Special Conditions, Notice of Award, Agreement, Performance Bond, Payment Bond, Notice to Proceed, Specifications, Construction Drawings, Addenda (whether issued prior to the opening of Bids or the execution of the Agreement), Change Orders issued by the Owner or Engineer, and Modifications.
- 1.11. CONTRACT PRICE.** The total amount payable to the Contractor under the Contract Documents.
- 1.12. CONTRACT TIME.** The number of days stated in the Agreement for the completion of the Work, computed as provided in these General Conditions; or the date set forth in the Agreement.
- 1.13. CONTRACTOR.** The person, firm, or corporation with whom the Owner has executed the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative. The relationship of the Contractor to the Owner shall be that of an independent contractor.
- 1.14. DAY.** A calendar day of twenty-four hours measured from midnight to the next midnight.
- 1.15. DATE OF CONTRACT.** The date written in the first paragraph of the Contract Agreement.
- 1.16. DRAWINGS OR PLANS.** The graphic and pictorial portions of the Contract Documents, wherever located or whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.
- 1.17. ENGINEER.** The City Engineer, person, firm, or corporation named by the Owner "the City of Shelbyville", or the duly authorized agents of the Engineer, acting within the scope of the duties entrusted to them.
- 1.18. FIELD ORDER.** A written order issued by the Engineer which clarifies or interprets the Contract Documents or orders minor changes in the Work.
- 1.19. MODIFICATION.** (a) A written amendment of the Contract Documents signed by both parties. (b) A Change Order. (c) A written clarification or interpretation issued by the Engineer. (d) A written order for a minor change or alteration in the Work issued by the Engineer. A Modification may be issued only after execution of the Agreement.
- 1.20. NOTICE OF AWARD.** The Written notice by the Owner to the apparent successful Bidder stating that upon compliance with the conditions precedent to be fulfilled by him within the time specified, the Owner will execute and deliver the Agreement to him.
- 1.21. NOTICE TO PROCEED.** A written notice given to the Contractor by the Owner or the Engineer fixing the date on which the Contract Time will commence to run and on which the Contractor shall start to perform his obligations under the Contract Documents.
- 1.22. OWNER.** The City of Shelbyville named and designated in the Agreement as "Owner" acting through its Board of Public Works and its authorized agents. All notices, letters, and other communication directed to the Owner shall be addressed and delivered to the Office of the City Engineer, 44 W. Washington St., Shelbyville, Indiana, 46176.
- 1.23. PROJECT.** The total construction of which the Work performed under the Contract Documents may be the whole or a part, and which may include construction by the Owner or by separate contractors.
- 1.24. QUOTE.** The offer or proposal of the Quoter submitted on the prescribed form setting forth the prices for the Work to be performed.
- 1.25. QUOTER** Any person, firm, or corporation submitting a Quote for the Work.
- 1.26. RESPONSIBLE Bidder.** One who is fully capable of performing the contract requirements and who has the integrity and reliability to insure faithful performance.
- 1.27. RESPONSIVE Bidder.** One who has submitted a bid conforming in all material respects to the Contract Documents.

- 1.28. SHOP DRAWINGS.** All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier or distributor and which illustrate the equipment, material or some portion of the Work.
- 1.29. SPECIFICATIONS.** Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work, and performance of related services.
- 1.30. SUBCONTRACTOR.** An individual, firm, or corporation having a direct contact with the Contractor or with any other Subcontractor for the performance of a part of the Work to a special design at the site, but does not include a firm which merely furnishes material.
- 1.31. SUBSTANTIAL COMPLETION.** The date as determined by the Engineer when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it was intended; or if there be no such determination, the date of final completion.
- 1.32. WORK.** Any and all obligations, duties, and responsibilities necessary to the successful completion of the Project assigned to, or undertaken by, the Contractor under the Contract Documents, including all labor, materials, equipment, and other incidentals, and the furnishing thereof.
- 1.33. MISCELLANEOUS DEFINITIONS**
- 1.33.1. AS ORDERED, AS DIRECTED, AS REQUIRED, AS PERMITTED, AS ALLOWED.** The order, directions, requirement, permission, or allowance of the Owner or Engineer is intended only to the extent of judging compliance with the Contract Documents. The terms do not imply that the Owner or Engineer has any authority or responsibility for supervision of the Contractor's forces or construction operations. Such supervision is the sole responsibility of the Contractor.
- 1.33.2. REASONABLE, SUITABLE, ACCEPTABLE, PROPER, SATISFACTORY.** The terms reasonable, suitable, acceptable, proper, and satisfactory mean such to the Owner or Engineer and are intended only to the extent of judging compliance with the Contract Documents.
- 1.33.3. UNDERSTOOD AND AGREED.** Whenever in these Contract Documents the expression "it is understood and agreed" or an expression of like import is used, such expression means the mutual understanding and agreement of the parties executing the Contract Agreement.

2.00. EXECUTION OF AGREEMENT.

- 2.01. EXECUTION OF AGREEMENT.** The Agreement and other Contract Documents will be executed as set forth in the Supplementary Conditions.
- 2.02. DELIVERY OF BONDS.** When he delivers the executed Agreements to the Owner, the Contractor shall also deliver to the Owner such Bonds as he may be required to furnish in accordance with the Agreement.
- 2.03. COPIES OF DOCUMENTS.** The Owner shall furnish to the Contractor the number of copies of the Contract Documents set forth in the Special Conditions.
- 2.04. CONTRACTOR'S PRE-AWARD REPRESENTATIONS.** The Contractor represents that he has familiarized himself with, and assumes full responsibility for having familiarized himself with, the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state, and local laws, ordinances, rules and regulations that may in any manner affect performance of the Work, and represents that he has correlated his study, observations and site visits with the requirements of the Contract Documents. The Contractor also represents that he has studied all surveys and investigation reports of subsurface and latent physical conditions referred to in the Specifications and made such additional surveys and investigations as he deems necessary for the performance of the Work at the Contract Price in accordance with the requirements of the Contract Documents and that he has correlated the results of all such data with the requirements of the Contract Documents.
- 2.05. COMMENCEMENT OF CONTRACT TIME; NOTICE TO PROCEED.** Unless otherwise provided in the SPECIAL CONDITIONS, the Contractor will be expected to start active and continuous work on the

contract within 5 calendar days after the date of the Notice to Proceed. In **no case** shall work begin prior to the date of the Notice to Proceed.

If a delayed starting date is indicated in the proposal, the 5 calendar day limitation shall be waived. Work day charges will then begin on a date mutually agreed upon, but not later than the delayed starting date specified. In the event that any contract is canceled after an award has been made but prior to the issuing of the Notice to Proceed, no reimbursement will be made for any expenses accrued relative to this contract during that period.

2.06. STARTING THE PROJECT. The Engineer shall be notified at least 2 days in advance of the date on which the work is expected to begin. Should the prosecution of the work for any reason be discontinued, the Engineer shall be notified at least 24 hours in advance of resuming operations. During the progress of the work, the Engineer shall be notified at least 24 hours in advance of undertaking construction operations.

2.07. BEFORE STARTING CONSTRUCTION. Before undertaking each part of the Work, the Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. He shall at once report in writing to the Engineer any conflict, error, or discrepancy which he may discover. However, he shall not be liable to the Owner or Engineer for his failure to discover any conflict, error, or discrepancy in the Drawings or Specifications.

2.08. SUBMISSION OF SCHEDULES. Within five days after delivery of the executed Agreement by the Owner to the Contractor, the Contractor shall submit to the Engineer for review, an estimated progress schedule indicating the starting and completion dates of the various stages of the Work, and a preliminary schedule of Shop Drawing submissions and other specified schedules.

Contracts with less than 60 calendar days completion time, less than 35 work days, or less than 60 days between the notice to proceed and the completion date do not need to submit a progress schedule.

The progress schedule may be used as a basis for establishing major construction operations and as a check on the progress of the work. The Engineer shall be notified at least 2 days in advance of the date on which the work is expected to begin.

Sufficient materials, equipment, labor shall be provided by the Contractor to meet the progress schedule (if required) and to guarantee the completion of the project in accordance with the plans and specifications.

3.00. CORRELATION, INTERPRETATION, AND INTENT OF CONTRACT DOCUMENTS.

It is the intent of the Specifications and Drawings to describe a complete Project to be constructed in accordance with the Contract Documents. The Contract Documents comprise the entire Agreement between the Owner and the Contractor. They may be altered only by a Modification.

The Contract Documents are complementary. What is called for by one is as binding as if called for by all. If the Contractor finds a conflict, error, or discrepancy in the Contract Documents, he shall call it to the Engineer's attention in writing at once. Before proceeding with the Work affected thereby, he shall not be liable to the Owner or Engineer for his failure to discover any conflict, error or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof or should reasonably have known thereof or unless Contractor has assumed a risk or responsibility connected therewith. Any Work that may reasonably be inferred from the Specifications or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which so applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards.

In case of discrepancy, calculated dimensions will govern over scaled dimensions; plans will govern over specifications; special conditions will govern over the plans and specifications. The instructions to bidders and the description of the pay items listed in the itemized proposal will govern over plans, specifications, and special conditions. The precedence outlined herein shall not absolve the Contractor

of his responsibility with regard to errors and omissions, or from his requirement to follow all IOSHA, OSHA, any local safety ordinances, and general good construction practices.

Advantage shall not be taken of any apparent error or omission in the plans or specifications. In the event such an error or omission is discovered, the Engineer shall be notified immediately in writing. Such corrections and interpretations as may be deemed necessary for fulfilling the intent of the plans and specifications will then be made.

4.00. AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS.

- 4.01. AVAILABILITY OF LANDS.** The Owner shall furnish, as indicated in the Contract Documents and not later than the Notice to Proceed, the lands upon which the Work is to be done, rights-of-way for access thereto, and such other lands which are designated for use by the Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by Owner, unless otherwise specified in the Contract Documents. If the Contractor believes that any delay in the Owner's furnishing these lands or easements entitles him to an extension of the Contract Time, he may make a claim therefor as provided in these General Conditions
- 4.02. PHYSICAL CONDITIONS; SURVEYS AND REPORTS.** Refer to **Instructions to Bidders**. For identification of those surveys and investigation reports of subsurface and latent physical conditions at the Project site or otherwise affecting performance of the Work which have been relied upon by the Engineer in preparation of the Drawings and Specifications, refer to **SPECIAL CONDITIONS**.
- 4.03. UNFORESEEN PHYSICAL CONDITIONS.** The Contractor shall promptly notify the Owner and Engineer in writing of any subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents. The Engineer will promptly investigate those conditions and advise the Owner in writing if further surveys or subsurface tests are necessary. Promptly thereafter, the Owner shall obtain the necessary additional surveys and tests and furnish copies to the Engineer and Contractor. If the Engineer finds that the results of such surveys or tests indicate that there are subsurface or latent physical conditions which differ materially from those intended in the Contract Documents, and which could not reasonably have been anticipated by the Contractor, a Change Order shall be issued incorporating the necessary revisions.
- 4.04. REFERENCE POINTS.** The Owner shall provide engineering surveys for construction to establish reference points which in his judgment are necessary to enable the Contractor to proceed with the Work. The Contractor shall be responsible for surveying and laying out the Work (unless otherwise provided in the Special Conditions), and shall protect and preserve the established reference points and shall make no changes or reallocations without the prior written approval of the Owner. He shall report to the Engineer whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations. The Contractor shall replace and accurately relocate all reference points so lost, destroyed or moved.

5.00. BONDS AND INSURANCE.

- 5.01. BID, PERFORMANCE & PAYMENT AND OTHER BONDS.** The Contractor shall furnish a Bid Bond, Performance & Payment Bond, Maintenance Bond, and any other Bonds specified in AGREEMENT and other Contract Documents as security for the faithful performance and payment of all his obligations under the Contract Documents. The Bid Bond shall be in an amount at least equal to 5% of the Bid Price, unless otherwise listed in SUPPLEMENTARY CONDITIONS. The Performance & Payment Bond shall be in an amount at least equal to 100% of the Contract Price, unless otherwise listed in SUPPLEMENTARY CONDITIONS. The Maintenance Bond shall be in an amount at least equal to 10% of the Contract Price, unless otherwise listed in SUPPLEMENTARY CONDITIONS. Bonds shall be executed on the forms (when provided) included in the Contract Documents and with such sureties as are licensed to conduct business in the state of Indiana and are named in the current list of "Surety Companies Acceptable on Federal Bonds" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. The surety shall have an "A" minimum rating of performance and a financial rating strength of five times the Contract Price, all as stated in "Best's Key Rating Guide, Property-Liability". Each Bond shall be accompanied by a "Power of Attorney" authorizing the attorney-in-fact to bind the surety and certified to include the date of the Bond.
- 5.02. TERMINATION OF SURETY.** If the surety on any Bond furnished by the Contractor is declared a bankrupt or becomes insolvent or its right to do business is terminated or revoked in any state where any part of the Project is located, the Contractor shall within five days thereafter substitute another Bond and surety, both of which shall be acceptable to the Owner.
- 5.03. CONTRACTOR'S LIABILITY INSURANCE.** The Contractor shall purchase and maintain such insurance as will protect him from claims under worker's compensation laws, disability benefit laws, or similar employee benefit laws, from claims for damages because of bodily injury, occupational sickness or disease, or death of his employees, and claims insured by personal injury liability coverage; from claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees including claims insured by personal injury liability; from claims for bodily injury or destruction of tangible property insured by automobile liability; from any claims insured by general liability; and from claims for injury to or destruction of tangible property, and loss of use resulting therefrom - any or all of which may arise out of or result from the Contractor's operations under the Contract Documents, whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. This insurance shall include the specific coverage's and be written for not less than any limits of liability and maximum deductibles specified in the Supplementary Conditions or required by law, whichever is greater, shall include contractual liability insurance and shall include the Owner and Engineer as additional insured parties. Before starting the Work, the Contractor shall file with the Owner and Engineer certificates of such insurance, acceptable to the Owner; these certificates shall contain a provision that the coverage afforded under the policies will not be canceled or materially changed until at least fifteen days prior written notice has been given to the Owner and Engineer.

6.00. CONTRACTOR'S RESPONSIBILITIES.

- 6.01. SUPERVISION AND SUPERINTENDENCE.** The Contractor shall supervise and direct the Work efficiently and with his best skill and attention. He shall be solely responsible for the means, methods, techniques, sequences and procedures of construction, but he shall not be solely responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence or procedure of construction which is indicated in and required by the Contract Documents. The Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents.
- 6.02. RESIDENT SUPERINTENDENT.** The Contractor shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to the Owner and Engineer except under extraordinary circumstances. The superintendent will be the

Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor.

- 6.03. LABOR, MATERIALS AND EQUIPMENT.** The Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities, and all other facilities and incidentals necessary for the execution, testing, initial operation, and completion of the Work.

All materials and equipment shall be new, except as otherwise provided in the Contract Documents. If required by the Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise provided in the contract Documents.

The Contractor shall be fully responsible for all acts and omissions of his Subcontractors and of persons and organizations directly or indirectly employed by them, and of persons and organizations for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between the Owner or Engineer and any Subcontractor or other person or organization having a direct contact with the Contractor, nor shall it create any obligation on the part of the Owner or Engineer to pay or to see to the payment of any monies due any Subcontractor or any other person or organization, except as may otherwise be required by law. The Owner or Engineer may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to the Contractor on account of specific Work done in accordance with the schedule of values.

The divisions and sections of the Specifications and the identification of any Drawings shall not control the Contractor in dividing the Work among Subcontractors or delineating the Work to be performed by any specific trade.

The Contractor agrees to bind specifically every Subcontractor to the specific terms and conditions of the Contract Documents for the benefit of the Owner.

All Work performed for the Contractor by a Subcontractor shall be pursuant to an appropriate agreement between the Contractor and the Subcontractor which shall contain provisions that waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by insurance, except such rights as they may have to the proceeds of such insurance. The Contractor shall pay each Subcontractor a just share of any insurance monies received by the Contractor.

- 6.04. PATENT FEES AND ROYALTIES.** The Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance 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 the 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 the Owner in the Contract Documents. The Contractor shall indemnify and hold harmless the Owner and Engineer and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of 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, and shall defend all such claims in connection with any alleged infringement of such rights.

- 6.05. PERMITS.** The Contractor shall obtain and pay for all construction permits and licenses and shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of his Bid. The Owner shall assist the Contractor, when necessary, in obtaining such permits and licenses. The Contractor shall also pay all public utility charges.

6.06. LAWS AND REGULATIONS. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the Contractor observes that the Specifications or Drawings are in conflict therewith, he shall give the Engineer prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Modification. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Engineer, he shall bear all costs arising therefrom; however, it shall not be his primary responsibility to make certain that the Specifications and Drawings are in accordance with such laws, ordinances, rules and regulations.

6.07. TAXES. The Contractor shall pay all sales, consumer, use and other similar taxes required to be paid by him in accordance with the law of the place where the work is to be performed.

6.08. USE OF PREMISES. The Contractor shall confine his equipment, the storage of materials and equipment and the operations of his workmen to areas permitted by law, ordinances, permits, or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with materials or equipment.

The Contractor shall not load nor permit any part of any structure to be loaded with weights that will endanger the structure, nor shall he subject any part of the Work to stresses or pressures that will endanger it.

6.09. RECORD DRAWINGS AND SHOP DRAWINGS. The Contractor shall keep one record copy of all Specifications, Drawings, Addenda, Modifications, and Shop Drawings at the site in good order and annotated to show all changes made during the construction process. These shall be available to the Engineer and shall be delivered to him for the Owner upon completion of the Project.

6.10. SAFETY AND PROTECTION. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions and measures to protect and prevent damage to human life, health, safety, the environment, and property. He shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

- 1) all employees on the Work and other persons who may be affected thereby.
- 2) all the Work and all materials or 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 and utilities not designated for removal, relocation, or replacement in the course of construction.
- 4) The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He shall notify owners of adjacent utilities when prosecution of the Work may affect them. All damage, injury or loss to any property caused directly or indirectly, in whole or in part, by the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the Contractor: except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of the Owner or Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Contractor. The Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and the Engineer has issued a notice to the Owner and Contractor in accordance with Supplementary Conditions that the Work is acceptable.

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

6.12. EMERGENCIES. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Engineer or Owner, is obligated to act, at his discretion, to prevent threatened damage, injury or loss. He shall give the Engineer prompt written notice of any significant changes in the Work or deviations from the

Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved. If the Contractor believes that additional work done by him in an emergency which arose from causes beyond his control entitles him to an increase in the Contract Price or an extension of the Contract Time, he may make a claim therefor.

6.13. INDEMNIFICATION. The Contractor shall indemnify and hold harmless the Owner and Engineer and their agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense:

- 1) 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 and
- 2) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable regardless of whether or not it is caused in part by a party indemnified hereunder.

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

The indemnification obligations of the Contractor shall not extend to the liability of the Engineer, his agents or employees arising out of:

- 1) the preparation of maps, drawings, opinions, reports, surveys, Change Orders, designs, or specifications or
- 2) the giving of or the failure to give directions or instructions by the Engineer, his agents or employees, provided such giving or failure to give is the primary cause of injury or damage.

7.00. WORK BY OTHERS.

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

If any part of the Contractor's Work depends for proper execution or results upon the work of any such other contractor (or Owner), the Contractor shall inspect and promptly report to the Engineer in writing any defects or deficiencies in such work that render it unsuitable for such proper execution and results. His failure to so report shall constitute an acceptance of the other work as fit and proper for the relationship of his Work except as to defects and deficiencies which may appear in the other work after the execution of his Work.

The Contractor shall do all cutting, fitting, and patching of his Work that may be required to make its several parts come together properly and fit it to receive or be received by such other work. The Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of the Engineer and of the other contractors whose work will be affected.

If the performance of additional work by other contractors or the Owner is not noted in the Contract Documents prior to the execution of the contract, written notice thereof shall be given to the Contractor prior to starting any additional work. If the Contractor believes that the performance of any such additional work by the Owner or others involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefor.

8.00. OWNER'S RESPONSIBILITIES.

The Owner shall issue all communications to the Contractor through the Engineer.

In case of termination of the employment of the Engineer, the Owner shall appoint an engineer against whom the Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer. Any dispute in connection with such an appointment shall be subject to arbitration.

The Owner shall furnish the data required of him under the Contract Documents promptly and shall make payments to the Contractor promptly after they are due.

In addition to his rights to request changes in the Work, the Owner shall be obligated to execute Change Orders.

9.00. ENGINEER'S STATUS DURING CONSTRUCTION.

9.01. OWNER'S REPRESENTATIVE. The Engineer will be the Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of the Engineer as the Owner's representative during construction are set forth in these General Conditions and the Supplementary Conditions and shall not be extended without the written consent of the Owner and the Engineer.

9.02. CLARIFICATIONS AND INTERPRETATIONS. The Engineer will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents (in the form of Drawings or otherwise) as he may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If the Contractor believes that a written clarification and interpretation entitles him to an increase in the Contract Price, he may make a claim therefor.

9.03. REJECTING DEFECTIVE WORK. The Engineer will have authority to reject Work which is "defective" (which term is hereinafter used to describe Work that is unsatisfactory, faulty or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Specifications, or has been damaged prior to the Engineer's recommendation of final payment). He will also have authority to require special inspection or special testing of the Work whether or not the Work is fabricated, installed or completed.

9.04. DECISIONS ON DISAGREEMENTS. The Engineer will be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder. In his capacity as interpreter and judge he will exercise his best efforts to insure faithful performance by both Owner and Contractor. He will not show partiality to either and will not be liable for the result of any interpretation or decision rendered in good faith. Claims, disputes, and other matters relating to the execution and progress of the Work or the interpretation of or performance under the Contract Documents shall be referred to the Engineer for decision, which he will render in writing within a reasonable time.

9.05. ARBITRATION. Either the Owner or the Contractor may demand arbitration with respect to any such claim, dispute, or other matter that has been referred to the Engineer, except any which have been waived by the making or acceptance of final payment, such arbitration to be in accordance with these General Conditions. However, no demand for arbitration of any such claim, dispute, or other matter shall be made until the earlier of (a) the date on which the Engineer has rendered his decision or (b) the tenth day after the parties have presented their evidence to the Engineer if he has not rendered his written decision before that date. No demand for arbitration shall be made later than thirty days after the date on which the Engineer rendered his written decision in respect to the claim, dispute or other matter as to which arbitration is sought; and the failure to demand arbitration within said thirty days' period shall result in the Engineer's decision being final and binding upon the Owner and the Contractor. If the Engineer renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence but shall not supersede the arbitration proceedings, except where the decision is acceptable to the parties concerned.

9.06. LIMITATIONS ON THE ENGINEER'S RESPONSIBILITIES. Neither the Engineer's authority to act under this article or elsewhere in the Contract Documents nor any decision made by him in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the

Engineer to the Contractor, any Subcontractor, any material, man, fabricator, supplier or any of their agents or employees or any other person performing any of the Work.

The Engineer will not be responsible for the Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, and he will not be responsible for the Contractor's failure to perform the Work in accordance with the Contract Documents.

The Engineer will not be responsible for the acts or omissions of the Contractor, or any Subcontractors, or any of his or their agents or employees or any other persons at the site or otherwise performing any of the Work.

10.00. CHANGES IN THE WORK.

Without invalidating the Agreement, the Owner may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by Change Orders. Upon receipt of a Change Order, the Contractor shall proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in these General Conditions on the basis of a claim made by either party.

The Engineer may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the Contractor believes that any minor change or alteration authorized by the Engineer entitles him to an increase in the Contract Price, he may make a claim therefor.

Additional work performed by the Contractor without authorization of a Change Order will not entitle him to an increase in the Contract Price or an extension of the Contract Time, except as otherwise provided herein.

The Owner shall execute appropriate Change Orders prepared by the Engineer covering changes in the Work to be performed as provided herein and any other claim of the Contractor for a change in the Contract Time or the Contract Price which is confirmed by the Engineer.

It is the Contractor's responsibility to notify his Surety of any changes affecting the general scope of the Work or change in the Contract Price and the amount of the applicable Bonds shall be adjusted accordingly.

11.00. CHANGE OF CONTRACT PRICE.

The Contract Price constitutes the total compensation payable to the Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the Contractor shall be at his expense without change in the Contract Price.

The Contract Price may only be changed by a Change Order. Any claim for an increase in the Contract Price shall be based on written notice delivered to the Owner and Engineer within fifteen days of the occurrence of the event giving rise to the claim. Notice of the amount of the claim with supporting data shall be delivered within thirty days of such occurrence unless the Engineer allows an additional period of time to ascertain accurate cost data. All claims for adjustments in the Contract Price shall be determined by the Engineer if the Owner and the Contractor cannot otherwise agree on the amount involved. Any change in the Contract Price resulting from any such claim shall be incorporated in a Change Order.

The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

- 1) Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.
- 2) By mutual acceptance of a lump sum.

- 3) On the basis of the Cost of the Work plus a Contractor's Fee for overhead and profit (determined in accordance with the following paragraphs).

11.01. COST OF THE WORK. The term "Cost of the Work" means the sum of all costs necessarily incurred and paid by the Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by the Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, and shall include only the following items:

- 1) Payroll costs for employees in the direct employ of the Contractor in the performance of the Work under schedules of job classifications set forth in the Wage Scale Determination. 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, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Sunday or legal holidays shall be included in the above to the extent authorized by the Owner.
- 2) The cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith. All cash discounts shall accrue to the Contractor unless the Owner deposits funds with the Contractor with which to make payments, in which case the cash discounts shall accrue to the Owner. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they may be obtained.
- 3) Payments made by the Contractor to the Subcontractors for Work performed by the Subcontractors. If required by the Owner, the Contractor shall obtain competitive bids from Subcontractors acceptable to him and shall deliver such bids to the Owner, who will then determine with the advice of the Engineer which bids will be accepted. If a 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 shall be determined in the same manner as the Contractor's Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.
- 4) Costs of special consultants (including, but not limited to, engineers, architects, testing laboratories, surveyors, lawyers and accountants) employed for services specifically related to the Work.

11.02. SUPPLEMENTAL COSTS include the following:

- 1) The proportion of necessary transportation, traveling and subsistence expenses of the Contractor's employees incurred in discharge of duties connected with the Work.
- 2) The 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 workmen, 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 the Contractor.
- 3) Rentals of all construction equipment and machinery and the parts thereof whether rented from the Contractor or others in accordance with the rental agreements approved by the Owner with the advice of the Engineer, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all 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.
- 4) Sales, use or similar taxes related to the Work, and for which the Contractor is liable, imposed by any governmental authority.
- 5) Deposits lost for causes other than the Contractor's negligence, royalty payments and fees for permits and licenses.
- 6) Losses, damages and expenses, not compensated by insurance or otherwise, sustained by the Contractor in connection with the execution of, and to, the Work, provided they have resulted

from causes other than the negligence of the 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 the Owner. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining the Contractor's fee. If, however, any such loss or damage requires reconstruction and the Contractor is placed in charge thereof, he shall be paid for his services a fee proportionate to that stated under Contractor's Fee.

- 7) The cost of utilities, fuel and sanitary facilities at the site.
- 8) Minor expenses such as telegrams, long distance phone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.
- 9) The cost of premiums for additional bonds and insurance required because of changes in the Work.

11.03 The term "COST OF THE WORK" shall *not* include any of the following:

- 1) Payroll costs and other compensation of the Contractor's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by the Contractor, whether at the site or in his principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications - all of which are to be considered administrative costs covered by the Contractor's Fee.
- 2) Expenses of the Contractor's principal and branch offices other than his office at the site.
- 3) Any part of the Contractor's capital expenses, including interest on the Contractor's capital employed for the Work and charges against the Contractor for delinquent payments.
- 4) Cost of premiums for all bonds and for all insurance policies whether or not the Contractor is required by the Contract Documents to purchase and maintain the same (except as otherwise provided above).
- 5) Costs due to the negligence of the 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.
- 6) Other overhead or general expense costs of any kind not specifically and expressly included in the Cost of the Work.

11.04. CONTRACTOR'S FEE. The Contractor's Fee which includes his overhead and profit shall be determined as follows:

- 1) A mutually acceptable fee; or, if none can be agreed upon,
- 2) A fee based on the following percentages of the various portions of the Cost of the Work:
 - for payroll costs and the cost of all materials and equipment included in the Work, the Contractor's Profit shall be ten percent.
 - for payments to Subcontractors, the Contractor's Profit shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to the Subcontractor as a fee for overhead and profit shall be ten percent, and
 - no fee shall be payable on the basis of costs of special consultants or supplemental costs.

11.05. CREDIT. The amount of credit to be allowed by the Contractor to the Owner for any such change which results in a net decrease in cost, will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any.

Whenever the cost of any Work is to be determined pursuant to preceding paragraphs, the Contractor will submit in form prescribed by the Engineer an itemized cost breakdown together with supporting data.

12.00. CHANGE OF CONTRACT TIME.

The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to the Owner and Engineer within fifteen days of the occurrence of the event giving rise to the claim. Notice of the extent of the claim with supporting data shall be delivered within thirty days of such occurrence unless the Engineer allows an additional period of time to ascertain more accurate data. All claims for adjustment in the Contract Time shall be determined by the Engineer if the Owner and the Contractor cannot otherwise agree. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor if he makes a claim therefor as provided in the preceding paragraph. Such delays shall include, but not be restricted to, acts or neglect by any separate contractor employed by the Owner, fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions made herein shall not exclude recovery for damages (including compensation for additional professional services) for delay by either party.

13.00. LIQUIDATED DAMAGES.

Liquidated damages shall be paid to the Owner in accordance with the Special Conditions if specified therein. If no provision is made in the Special Conditions, liquidated damages shall be paid as follows:

In the event the Contractor fails to satisfactorily complete the entire Work contemplated and provided for under this contract on or before the date of completion as determined and described elsewhere herein, the Owner shall deduct from the amount due the Contractor the sum as indicated on the table below for each calendar day (Sundays and legal holidays excluded) of delay, which sum is agreed upon not as a penalty, but as a fixed and liquidated damage for each day of such delay, to be paid in full and subject to no deduction, it being understood and agreed that timely completion is of the essence. If the monies due the Contractor are less than the amount of such liquidated damages, then the Contractor or his surety shall pay the balance to the Owner.

SCHEDULE FOR LIQUIDATED DAMAGES FOR EACH DAY OF OVERRUN IN CONTRACT TIME

Original Contract Amount		Daily Charge	
From More Than	To and Including	Calendar Day or Fixed Date	Work Day
\$0	\$100,000.00	\$200.00	\$200.00
\$100,000.00	\$500,000.00	\$300.00	\$400.00
\$500,000.00	\$2,000,000.00	\$400.00	\$800.00
\$2,000,000.00	\$7,000,000.00	\$500.00	\$1,500.00
\$7,000,000.00	-----	\$700.00	\$2,000.00

14.00. WARRANTY AND GUARANTEE: TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK.

14.01. WARRANTY AND GUARANTEE. The Contractor warrants and guarantees to the Owner and Engineer that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality and free from faults or defects and in accordance with the requirements of the Contract Documents and of any inspections, tests or approvals referred to in the Tests and Inspection paragraph. All unsatisfactory Work, all faulty or defective Work, and all Work not conforming to the requirements of the Contract Documents at the time of acceptance thereof or of such inspections, tests or approvals, shall be considered defective. Prompt notice of all defects shall be given to the Contractor. All defective Work, whether or not in place, may be rejected, corrected, or accepted as provided herein.

14.02. TESTS AND INSPECTIONS. If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested, or approved by some public body, the Contractor shall assume full responsibility therefor, pay all costs in connection therewith and furnish the Engineer the required certificates of inspection, testing, or approval. All other inspections, tests, or approvals required by the Contract Documents shall be performed by organizations acceptable to the Owner and the Contractor and the costs thereof shall be borne by the Owner unless otherwise specified.

The Contractor shall give the Engineer timely notice of readiness of the Work for all inspections, tests or approvals. If any such Work required so to be inspected, tested or approved is covered without written concurrence of the Engineer, it must, if requested by the Engineer, be uncovered for observation, and such uncovering shall be at the Contractor's expense unless the Contractor has given the Engineer timely notice of his intention to cover such Work and the Engineer has not acted with reasonable promptness in response to such notice.

Neither observations by the Engineer nor inspections, tests or approvals by persons other than the Contractor shall relieve the Contractor from his obligations to perform the Work in accordance with the Contract Documents.

14.03. ACCESS TO WORK. The Engineer and his representatives and other representatives of the Owner will at reasonable times have access to the Work. The Contractor shall provide proper and safe facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

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

If any Work has been covered which the Engineer has not specifically requested to observe prior to its being covered, or if the Engineer considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Engineer's request, shall uncover, expose or otherwise make available for observation, inspection or testing as the Engineer may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is

defective, the Contractor shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such Work is not found to be defective, the Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction if he makes a claim therefor.

14.05. OWNER MAY STOP THE WORK. If the Work is defective, or the Contractor fails to supply sufficient skilled workmen or suitable materials or equipment, or if the Contractor fails to make prompt payment to Subcontractors or for labor, materials or equipment, the Owner may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other party.

14.06. CORRECTION OR REMOVAL OF DEFECTIVE WORK. If required by the Engineer prior to his recommendation of final payment, the Contractor shall promptly, without cost to the Owner and as specified by the Engineer, either correct any defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by the Engineer, remove it from the site and replace it with nondefective Work. If the Contractor does not correct such defective Work within a reasonable time, all as specified in a written notice from the Engineer, the Owner may have the deficiency corrected or the rejected Work removed and replaced. All direct or indirect costs of such correction or removal and replacement, including compensation for additional professional services, shall be paid by the Contractor, and an appropriate deductive Change Order shall be issued. The Contractor shall also bear the expenses of making good all Work of others destroyed or damaged by his correction, removal or replacement of his defective Work.

14.07. CORRECTION PERIOD. If, after final payment and prior to the expiration of one year after the date of Substantial Completion (unless a longer period is set forth in the Supplementary Conditions) or such longer period as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any Work is found to be defective, the Contractor shall promptly, without cost to the Owner and in accordance with the Owner's written instructions, either correct such defective Work or, if it has been rejected by the Owner, remove it from the site and replace it with nondefective Work. If the Contractor does not promptly comply with the terms of such instructions, the Owner may have the defective Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by the Contractor.

14.08. ACCEPTANCE OF DEFECTIVE WORK. If, instead of requiring correction or removal and replacement of defective Work, the Owner (and, prior to final payment, the Engineer) prefers to accept it, he may do so. In such case, if acceptance occurs prior to final payment, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price; or, if the acceptance occurs after final payment, an appropriate amount shall be paid by the Contractor to the Owner.

14.09. NEGLECTED WORK BY THE CONTRACTOR. If the Contractor should fail to prosecute the Work in accordance with the Contract Documents, including any requirements of the progress schedule, the Owner, after seven days written notice to the Contractor may, without prejudice to any other remedy he may have, make good such deficiencies and the cost thereof (including compensation for additional professional services) shall be charged against the Contractor if the Engineer agrees with such action, in which case a Change Order shall be issued incorporating the necessary revisions in the Contract Documents including an appropriate reduction in the Contract Price. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

15.00. PAYMENTS AND COMPLETION.

15.01. APPLICATION FOR PROGRESS PAYMENT. The Contractor may, no more frequently than every two weeks, make an estimate of the value of the Work completed, and submit an Application for Payment. The estimated cost of repairing, replacing, or rebuilding any part of the Work or replacing

materials which do not conform to the Contract Documents will be deducted from the estimated value. The Application for Payment shall be submitted to the Engineer for review and approval.

- 15.02. CONTRACTOR'S WARRANTY OF TITLE.** The Contractor warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to the Owner at the time of payment free and clear of all liens, claims, security interests and encumbrances (hereafter in these General Conditions referred to as "Liens").
- 15.03. REVIEW OF APPLICATION FOR PAYMENT.** The Contractor shall furnish to the Engineer such detailed information as he may request to aid in the review and approval of such Estimates. The Engineer will, within five working days after receipt of each Application for Payment, either recommend payment and present the Application to the Owner, or return the Application to the Contractor indicating in writing his reasons for refusing to recommend payment. In the latter case, the Contractor may make the necessary corrections and resubmit the Application. The Owner will make payment as soon as its fiscal procedure allows. Payments to the Contractor shall not be due until the expiration of sixty (60) days from the date of the Owner's receipt of the Contractor's approved application for payment. Retainage shall be withheld from each payment in the amount of 10% of each Application up to 100% completion. Upon substantial completion of the work, any amount retained may be paid to the Contractor. When the work has been substantially completed except for the work which cannot be completed due to weather conditions, lack of materials or other reasons which in the judgment of the Owner are valid reasons for noncompletion, the Owner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed.
- 15.04. FINAL INSPECTION.** When the Work has been substantially completed and at a time mutually agreeable to the Owner, Engineer, and Contractor, the Engineer and Contractor shall make a final walk-through inspection of the Work. The Engineer shall report to the Owner his findings as to the acceptability and completeness of the Work.
- 15.05. APPLICATION FOR FINAL PAYMENT.** Upon written notice from the Engineer that Work is completed and acceptable as provided in the Supplementary Conditions, the Contractor shall make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all other documentation called for in the Contract Documents and such other data and schedules as the Engineer may reasonably require.
- 15.06. FINAL PAYMENT.** If, on the basis of his observation and review of the Work during construction, his final inspection and his review of the final Application for Payment, all as required by the Contract Documents, the Engineer is satisfied that the Work has been completed and the Contractor has fulfilled all of his obligations under the Contract Documents, he will, within ten days after receipt of the final Application for Payment, present the Application to the Owner for Payment. Thereupon the Engineer will give written notice to the Contractor that the Work is acceptable subject to the provisions of the paragraph regarding waiver of claims. Otherwise, he will return the Application to the Contractor, indicating in writing his reasons for refusing to recommend final payment, in which case the Contractor shall make the necessary corrections and resubmit the Application. The Owner shall, within sixty-one (61) days of presentation to him of the final Application for Payment, pay the Contractor the entire sum found to be due after deducting all amounts to be retained under any provision of the Contract Documents.
- 15.07. CONTRACTOR'S CONTINUING OBLIGATION.** The Contractor's obligation to perform the Work and complete the Project in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by the Engineer, nor the issuance of a certificate of Substantial Completion, nor any payment by the Owner to the Contractor under the Contract Documents, nor any use or occupancy of the Project or any part thereof by the Owner, nor any act of acceptance by the Owner nor any failure to do so, nor any correction of defective Work by the Owner shall constitute an acceptance of Work not in accordance with the Contract Documents.
- 15.08. WAIVER OF CLAIMS.** The making and acceptance of final payment shall constitute:
- 1) a waiver of all claims by the Owner against the Contractor other than those arising from unsettled Liens, from defective Work appearing after final inspection or from failure to comply with the

requirements of the Contract Documents or the terms of any special guarantees specified therein, and

- 2) a waiver of all claims by the Contractor against the Owner other than those previously made in writing and still unsettled.

16.00. SUSPENSION OF WORK AND TERMINATION.

16.01. OWNER MAY SUSPEND WORK. The Owner may, at any time and without cause, suspend the Work or any portion thereof for a period of ninety days by notice in writing to the Contractor, which shall fix the date on which Work shall be resumed. The Contractor shall resume the Work on the date so fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if he makes a claim therefor as provided in these General Conditions.

16.02. OWNER MAY TERMINATE. If the Contractor is adjudged a bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the Contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to Subcontractors or for labor, materials or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or if he disregards the authority of the Engineer, or if he otherwise violates any provision of the Contract Documents, then the Owner may, without prejudice to any other right or remedy and after giving the Contractor and his Surety seven days written notice, terminate the services of the Contractor and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and finish the Work by whatever method he may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excesses shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. Such costs incurred by the Owner shall be incorporated in a Change Order.

- 1) Where the Contractor's services have been so terminated by the Owner, said termination shall not affect any rights of the Owner against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the Owner due the Contractor will not release the Contractor from liability.
- 2) Upon seven days written notice to the Contractor, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Agreement. In such case, the Contractor shall be paid for all Work executed and any expense sustained plus a reasonable profit.

16.03. CONTRACTOR MAY STOP WORK OR TERMINATE. If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety days by the Owner or under an order of court or other public authority, or the Engineer fails to act on any Application for Payment within thirty days after it is submitted, or the Owner fails to pay the Contractor any sum recommended by the Engineer or awarded by arbitrators within thirty days of its approval and presentation, then the Contractor may, upon seven days written notice to the Owner and Engineer, terminate the Agreement and recover from the Owner payment for all Work executed and any expense sustained plus a reasonable profit. In addition and in lieu of terminating the Agreement, if the Engineer has failed to act on an Application for Payment or the Owner has failed to make any payment as aforesaid, the Contractor may upon seven days notice to the Owner and Engineer stop the Work until he has been paid all amounts then due.

17.00. DISPUTE RESOLUTION AND ARBITRATION.

Except as otherwise required by the Supplementary Conditions, all claims, disputes and other matters in question arising out of, or relating to, this Agreement or the breach thereof except for claims which

have been waived by the making or acceptance of final payment, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining. This agreement so to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.

Notice of the demand for arbitration shall be filed in writing with the other party to the Agreement and with the American Arbitration Association, and a copy shall be filed with the Engineer. The demand for arbitration shall be made within thirty days after the Engineer has rendered his decision where applicable, and in all other cases within a reasonable time after the claim, dispute, or other matter in question has arisen, and in no event shall it be made after institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

The Contractor will carry on the Work and maintain the progress schedule during any arbitration proceedings, unless otherwise agreed by him and the Owner in writing.

18.00. ENVIRONMENTAL REQUIREMENTS.

The Contractor, when constructing a project involving trenching and/or other related earth excavation, shall comply with the following environmental constraints.

18.01. WETLANDS. The Contractor, when disposing of excess, spoil, or other related earth construction materials on public or private property, shall not fill in or otherwise convert wetlands

18.02. FLOODPLAINS. The Contractor, when disposing of excess, spoil, or other related earth construction materials on public or private property, shall not fill in or otherwise convert 100 year flood plain areas delineated on the latest FEMA Floodplain Maps.

18.03. HISTORIC PRESERVATION. Any excavation by the Contractor that uncovers an historical or archaeological artifact shall be immediately reported to the City Engineer's Office. Construction shall be temporarily halted pending the notification process and further directions issued by the City after consultation with the State Historic Preservation Officer (SHPO).

18.04. ENDANGERED SPECIES. The Contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species or their critical habitat be brought to the attention of the contractor, the contractor shall immediately report this evidence to the City Engineer. Construction shall be temporarily halted pending the notification process and further directions issued by the OWNER after consultation with the U.S. Fish and Wildlife Service.

19.00. MISCELLANEOUS.

19.01. GIVING NOTICE. Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to be validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to him who gives the notice.

19.02. COMPUTATION OF TIME. When any period of time is referred to in the Contract Documents by days (INDOT Section 101.07 & Section 101.64, along with any other applicable INDOT definition sections), it shall be computed to exclude the first and include the last day of such a 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 a day shall be omitted from the computation.

19.03. ADDITIONAL SPECIFICATION REQUIREMENTS. Areas of work not covered under Supplementary Conditions will be covered in applicable sections of Indiana Department of Transportation Specifications 2012 Edition.

SECTION VIII
SUPPLEMENTARY CONDITIONS

SUPPLEMENTARY CONDITIONS

NOTE: These Supplementary or Special Conditions amend or supplement the General Conditions of the Construction Contract and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

The terms used in these Supplementary Conditions which are defined in the General Conditions of the Construction Contract have the same meanings assigned to them as in the General Conditions.

Approved, or Equal - The words “approved” or “equal”, or other equivalent words used in these Specifications or in the Contract shall be understood to mean that said device, part or construction is to be approved by and shall be to the satisfaction of the Owner and Engineer, prior to its manufacture or placing in the Work.

Award - The decision of Owner to accept the Bid of the lowest and/or most qualified responsible Bidder for the Work, subject to the execution and approval of a satisfactory contract therefore and bond to secure the performance thereof, and to such other conditions as may be specified or otherwise required by law.

Bid Bond - The security designated in the Bid to be furnished by the Bidder as a guarantee that said Bidder will enter into a Contract with the Owner for the acceptable performance of the Work and will furnish the required performance bond, if the Work is awarded to him/her.

Certificate of Substantial Completion - The affidavit signed by the Contractor stating that the Work has been completed.

Contract: The word “contract” is synonymous with the word “agreement”.

Permanent Easement - A permanent easement is permanent right-of-way to use a described parcel of land for the purpose to construct, operate, control, maintain, reconstruct, and remove a utility line and appurtenances along, under and across said easement.

Progress Payment - The phrase “application for Progress Payment” is synonymous with the phrase “periodic estimate for partial payment”.

Plans - The word “plans” is synonymous with the word drawings”.

Proposal - The word “proposal” is synonymous with the word “bid”.

Right-of-Way - The areas existing or acquired by permanent easement for the right of passage, i.e., a railroad for tracks, a public road, use of a utility for its services, or drainage purposes such as overland swale or enclosed conduit.

Shall - The word “shall” when used in these Contract Documents is mandatory.

Temporary Easement - A temporary easement is a temporary use of a land for the purposes of constructing and placing in operation a utility and its appurtenances. The temporary easement usually expires shortly after completion of the Work, generally within one year of adoption.

ABBREVIATIONS

The following organizations are referred to in these Contract Documents by abbreviations of their titles.

ASTM - American Society for Testing and Materials
AWWA - American Water Works Association
ACI - American Concrete Institute
AASHTO - American Association of State Highway Officials
ANSI - American National Standards Institute
ASA - American Standards Association

ARTICLE 2 - PRELIMINARY MATTERS

SC-2.03 COPIES OF DOCUMENTS

SC-2.03 Amend the second sentence of paragraph 2.03 to read as follows:

OWNER shall furnish to CONTRACTOR one (1) copies of the Contract Documents. Additional copies will be furnished at the cost of reproduction.

SC-2.07 BEFORE STARTING CONSTRUCTION

The last portion of the last sentence is amended to read as follows:however, 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 or should reasonably have known thereof or unless Contractor has assumed a risk or responsibility connected therewith.

SC-2.08 SCHEDULES

The Schedule of Values shall be in such form as the Contractor and ENGINEER mutually agreed upon.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

It is the intent of this Supplemental Condition to clarify, in general, certain parts of Article 3 in the General Conditions. It is not intended that this Supplemental Condition replace Article 3 in the General Conditions.

INTENT: The intent of the Plans and Specifications is to prescribe the outline of the Work which the Contractor undertakes to do in full compliance with the Contract. Contractor shall furnish all required materials, equipment, tools, labor and incidentals, unless otherwise provided in the Contract, and shall include the cost of these items in the unit price bid for said unit of work.

No deviation from these Specifications or the appropriate Plans shall be permitted unless first approved in writing by the Engineer and/or Owner.

All Work indicated on the Drawings and not mentioned in the Specifications or vice versa, and all Work and material usual and necessary to make Work complete in all its parts, whether or not they are indicated on the Drawings or mentioned in the Specifications, shall be furnished and executed the same as if they were called for by both the Drawings and Specifications, and will not entitle the Contractor to consideration in the matter of any claim for extra compensation.

Only figured dimensions on the Drawings will be used by the Contractor. Where the work of the Contractor is affected by finish dimensions, those shall be determined by the Contractor at the site, and the Contractor shall assume the responsibility therefor. In case of discrepancy, figured dimensions shall govern over scaled dimensions. Plans shall govern over Specifications; and quantities shown on the Plans shall govern over those shown in the Bid. Neither the Owner nor Contractor shall take advantage of any apparent error or omission in the Plans or Specifications, and the Engineer shall be permitted to make such corrections and interpretations as may be deemed necessary for the fulfillment of the intent of the Plans and Specifications.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

SC-4.02 SUBSURFACE AND PHYSICAL CONDITIONS

No professional survey has been completed for the project, although the City engineering office has surveyed the site. Contractor to verify all elevations prior to construction.

PROCEDURES

- A. During construction, the Contractor shall proceed with caution so the exact location of underground utilities and structures, both known and unknown, may be determined.
- B. The Contractor shall notify the Engineer and the appropriate utility companies at least forty-eight (48)

hours (2 working days) prior to the start of construction.

1. The utility companies will locate any existing underground utilities and structures within the site limits.
2. The Contractor, prior to the start of construction, shall verify the location of any existing underground utilities and structures within the site limits. It is the Contractor's responsibility to make any and all exploratory investigations which may be necessary to verify or locate the utility pipe, wires, structures and appurtenances of others. The Contractor shall notify the Engineer immediately of any conflicts between the location called for in the information furnished and the actual location of any existing underground utilities or structures. Any conflicts found shall be recorded as directed by the Engineer.
3. Wherever sewer, gas, water, low or high voltage electrical wires, or other pipes or conduits cross the excavation, the Contractor shall support said pipes, etc. without damage to them and without interrupting their use during the progress of the Work. The manner of supporting such pipes, etc., shall be subject to review by the respective utilities.
4. Any damage to poles, fences, sewer, gas, water or other pipes, wires, conduits, manholes, buildings, structures and property resulting from the Contractor's work shall be promptly repaired at the expense of the Contractor. The quality of all such repair work shall be to the satisfaction of the respective utilities.

SC-4.04 REFERENCE POINTS

The Owner shall provide engineering surveys for construction to establish reference points which in his judgment are necessary to enable Contractor to proceed with the Work. The Contractor shall be responsible for laying out the Work (unless otherwise specified in the General Requirements), shall locate all mechanical and electrical services uncovered by excavation, shall establish all grades, lines, levels and benchmarks, and shall protect and preserve the established reference points. The Contractor shall make no changes or relocations without the prior written approval of Owner. The Contractor shall report to the Engineer when any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be relocated by professionally qualified personnel. The Contractor shall maintain a bound surveyor's field notebook to accurately record all discrepancies if any, discovered in the Owner's data. The field notebook becomes the property of the Owner upon completion of the Work.

ARTICLE 5 - BONDS AND INSURANCE

SC-5.01 PERFORMANCE, PAYMENT, AND OTHER BONDS

- A. Bid Security is to be provided by each Contractor in the amount of five (5) percent of his/her maximum bid price and will be in the form of a certified or bank check or a Bid Bond - the prescribed type of Bid Bond is attached.
- B. Performance Bond & Payment Bond in an amount equal to the Contract Price.

SC-5.03 CONTRACTOR'S LIABILITY INSURANCE

Add the following new paragraph immediately after paragraph 5.03.A:

- B. The limits of liability for the insurance required by paragraph 5.03 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 paragraph 5.03 of the General Conditions:
 - a. State: Statutory
 - b. Applicable Federal (e.g., Longshoreman's): Statutory
 - c. Employer's Liability: \$1,000,000
 2. Contractor's General Liability under paragraph 5.03 of the General Conditions which shall include completed operations and product liability coverage and eliminate the exclusion with respect to property under the care, custody and control of Contractor:
 - a. General Aggregate \$2,000,000
 - b. Products – Completed Operations Aggregate \$2,000,000
 - c. Personal and Advertising Injury \$1,000,000
 - d. Each Occurrence (Bodily Injury and Property Damage) \$1,000,000
 - e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.
 - f. Excess or Umbrella Liability
 - 1) General Aggregate \$5,000,000
 - 2) Each Occurrence \$5,000,000
 - g. Fire Damage: \$ 250,000 (any one fire)
 3. Automobile Liability under paragraph 5.03 of the General Conditions:
 - a. Bodily Injury:
 - b. Each Person \$1,000,000
 - c. Each Accident \$1,000,000
 - d. Property Damage: Each Accident \$1,000,000
 - e. Combined Single: Limit of \$1,000,000
 4. Engineer and Resident Project Representative or Owner if no Resident Project Representative is appointed shall also be included on policy as additional insured.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

SC-6.03 LABOR, MATERIALS AND EQUIPMENT

It is understood that except as otherwise specifically stated in Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete and deliver the Work within the specified time.

SC-6.07 TAXES

Owner is required by statute to withhold certain taxes, including Indiana State Gross Income tax, from all payments made to non-resident contractors who are corporations and to remit such tax quarterly to the Indiana Department of Revenue. A foreign corporation which is registered with the Indiana Secretary of State to do business in Indiana shall be exempt from this withholding requirement.

Exemption certificates for the Indiana Gross Retail tax (sales tax) for property that becomes property of the Owner and all Federal Excise tax can be furnished by the Owner and therefore such taxes shall not be included in the Contract Price. The Contractor may request exemption certificate forms

directly from the Owner.

SC-6.09 SHOP DRAWINGS AND SAMPLES

Contractor's Certification: When submitted for the Engineer's review, shop drawings shall bear the Contractor's certification that he has reviewed, checked and approved the shop drawings; that they are in harmony with the requirements of the Project and with the provisions of the Contract Documents; and that he has verified all field measurements and construction criteria, materials, catalog numbers and similar data. Contractor shall also certify that the Work represented by the shop drawings is recommended by the Contractor, and the Contractor's Guaranty will fully apply.

The cost of furnishing shop drawings shall be incidental to the Contract, and no additional compensation will be allowed the Contractor for any delays resulting therefrom.

Samples shall be furnished by the Contractor at his expense and may be used in the Work after acceptance. Testing of samples and materials shall be arranged and paid for the Contractor and/or supplier of said materials. Engineer may request samples on any material at any time. Refusal or delay by Contractor in providing samples could result in delay of partial payments and/or rejection of all Work pertinent to the sample.

All submittals will be identified as ENGINEER may require. Contractor shall submit six (3) copies of the required shop drawings or submittals unless otherwise noted in the detailed specifications.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

SC-9.01 PROJECT REPRESENTATION

The duties, responsibilities and limitations of authority of the Resident Project Representative (RPR) are as follows:

If directed by the Owner, Engineer shall furnish a Resident Project Representative (RPR), assistants and other field staff to assist Engineer in observing performance of the work of the Contractor. Otherwise, Engineer shall function as RPR.

Through on-site observations of the Work in progress and field checks of materials and equipment by the RPR and assistants, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work; but, the furnishing of such services will not make Engineer responsible for or give Engineer control over construction means, methods, techniques, sequence or procedures or for safety precautions or programs, or responsibility for Contractor's failure to perform the Work in accordance with the Contract Documents.

The duties and responsibilities of the RPR are limited to those of Engineer in Engineer's Agreement with the Owner and in the construction Contract Documents, and are further limited and described as follows:

A. General

RPR is Engineer's agent at the site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with Engineer and Contractor, keeping Owner advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner with the knowledge of and under the direction of Engineer.

B. Duties and Responsibilities of RPR

1. Schedules: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by Contractor and consult with Engineer concerning

acceptability.

2. Conferences & Meetings: Attend meetings with Contractor, such as pre-construction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. Liaison:
 - a. Serve as Engineer's liaison with Contractor, working principally through Contractor's Superintendent and assist in understanding the intent of the Contract Documents; and assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-site operations.
 - b. Assist in obtaining from Owner additional details or information, when required for proper execution of the work.
4. Shop Drawings and Samples:
 - a. Record date of receipt of Shop Drawings and samples.
 - b. Receive samples which are furnished at the site by Contractor, and notify Engineer of availability of samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by Engineer.
5. Review of Work, Rejection of Defective Work, Inspections & Tests:
 - a. Conduct on-site observations of the Work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of Work that RPR believes should be correct and rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - c. Verify that tests, equipment and systems startups and operating and maintenance training area conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof; and observe, record and report to Engineer appropriate details relative to the test procedures and startups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to Engineer.
6. Interpretation of Contract Documents: Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
7. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to Engineer. Transmit to Contractor decisions as issued by Engineer.
8. Records:
 - a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproduction of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, and other Project-related documents.
 - b. Keep a diary or log book, recording Contractor hours on the job site, weather conditions,

data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

- c. Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.

9. Reports:

- a. Furnish Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawings and sample submittals.
- b. Consult with Engineer in advance of scheduled major tests, inspections or start of important phases of the Work.
- c. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from Contractor and recommend to Engineer Change Orders, Work Directive Changes, and Field Orders.
- d. Report immediately to Engineer and Owner upon the occurrence of any accident.

10. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.

11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to Engineer for review and forwarding to Owner prior to final payment for the Work.

12. Completion:

- a. Before Engineer issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- b. Conduct final inspection in the company of Engineer, Owner and Contractor and prepare a final list of items to be completed or corrected.
- c. Observe that all items on final list have been completed or corrected and make recommendations to Engineer concerning acceptance.

C. LIMITATIONS OF AUTHORITY

RESIDENT PROJECT REPRESENTATIVE:

- 1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by Engineer.
- 2. Shall not exceed limitations of Engineer's authority as set forth in the Contract Documents.
- 3. Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.
- 4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

5. Shall not advise on, issue directions regarding or assume control over safety precautions and program in connection with the Work.
6. Shall not accept Shop Drawing or sample submittals from anyone other than Contractor.
7. Shall not authorize Owner to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by Engineer.

ARTICLE 15 - PAYMENTS TO CONTRACTOR AND COMPLETION

SC-15.06 - FINAL PAYMENT BECOMES DUE

Paragraph 15.06 of the General Conditions is amended by adding the following:

The final payment, including all escrowed principal and escrowed income, subject to the deductions provided herein, shall become due within sixty-one (61) days following the date of Substantial Completion, as provided in I.C. 36-1-12-1 et. seq.

If at that time, there are any remaining uncompleted minor items, an amount equal to two hundred percent (200%) of the value of each item, as determined by Engineer, shall be withheld until said item or items are completed.

ARTICLE 17 – DISPUTE RESOLUTION AND ARBITRATION

SC-17.00 DISPUTE RESOLUTION AND ARBITRATION

- A. OWNER and CONTRACTOR agree that they shall submit any and all unsettled Claims or counterclaims, disputes, or other matters in question between them arising out or relating to the Contract Documents or the breach thereof to mediation if both parties agree, or if both parties do not agree to mediation, such matters shall be decided in a court of competent jurisdiction within the State in which the OWNER is located.

SECTION IX

NOTICE OF AWARD

NOTICE OF AWARD

Dated _____

[Certified Mail -- Return Receipt Requested]

TO:

(BIDDER)

ADDRESS: _____

Contract: _____
(Insert name of Contract as it appears in the Bidding Documents)

Project:

OWNER's Contract

You are notified that your Bid dated _____ for the above Contract has been considered. You are the apparent Successful Bidder and have been awarded a Contract for Adams Glass Building Demolition, Project No.: 25-004.

The Contract Price of your Contract is _____ Dollars (\$_____).

Three (3) copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award. Three (3) sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within 3 days of the date you receive this Notice of Award.

1. Deliver to the OWNER three fully executed counterparts of the Contract Documents. Each of the Contract Documents must bear your signature on page 12 of the Agreement.

2. Deliver with the executed Contract Documents the Contract security (Bonds) as specified in the Instructions to Bidders (Article 20), [and] General Conditions (paragraph 5.01).

SECTION X
AGREEMENT

**AGREEMENT
BETWEEN
CITY OF SHELBYVILLE
AND**

FOR

ADAMS GLASS BUILDING DEMOLITION

PROJECT NO. 25-004

THIS AGREEMENT, executed by and between the City of Shelbyville, Indiana, (hereinafter called CITY or OWNER), and _____, (hereinafter called CONTRACTOR);

WITNESSETH THAT:

WHEREAS, CITY is desirous of retaining CONTRACTOR' S services for Project Name, Project No. Project Number (more particularly described in "Invitation to Bidders"); and

WHEREAS, CONTRACTOR is capable of performing the work described below in Article 1 for the Adams Glass Building Demolition as per his bid on the Bid Summary sheet; and

WHEREAS, said bid was determined to be the lowest responsible and responsive bid for said Bid Summary sheet.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter enumerated, the parties agree as follows:

ARTICLE 1 - WORK

1.01 Work includes the demolition and legal disposal of demolition debris of the building structure at 201 South Harrison Street, 13 West Broadway Street, and 15-17 West Broadway Street, in Shelbyville, Indiana.

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as Adams Glass Building Demolition.

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by the City Engineer who is hereinafter called ENGINEER and who is 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 – SERVICES AND 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 *Days to Achieve Substantial Completion and Final Payment*

- A. CONTRACTOR shall substantially complete the Work October 25, 2025, and completed and ready for final payment in accordance with paragraphs 15.04 and 15.05 of the General Conditions within 30 days after the date of substantial completion. Substantial Completion shall be considered to be completion of all work, other than minor clean up.

4.03 *Liquidated Damages*

- A. CONTRACTOR and OWNER understand and recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also understand and 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), CONTRACTOR shall pay OWNER for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER for each day that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment. Liquidated Damages are determined in Article 13 of the General Conditions for each day of overrun in contract time. Contractor agrees to pay OWNER said damages or, in the alternative, OWNER, at its sole discretion, may withhold monies otherwise due CONTRACTOR. It is expressly understood by the parties hereto that these damages relate to the time of performance and do not limit OWNER's other remedies under this Agreement, or as provided by applicable law.

4.04 *Delays and Hindrances*

- A. CONTRACTOR agrees that no charges or claims for damages shall be made by him for any delays or hindrances, from any cause whatsoever during the progress of any portion of the services specifies in the Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for reasonable period as may be mutually agreed upon between the parties, it being understood, however, that permitting of CONTRACTOR to proceed to complete any service, or any part of the, after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of OWNER or any of its rights herein.

ARTICLE 5 - CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 5.01.A, below:

- A. For all Work at the prices stated in CONTRACTOR'S BID, attached hereto as "Bid Form".

ARTICLE 6 - PAYMENT PROCEDURES

6.01 *Services*

- A. CONTRACTOR shall provide services as specified in "Invitation to Bidders", attached hereto and incorporated into this Agreement.

6.02 *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. The submission of any Application for Payment shall be deemed a waiver and release by CONTRACTOR of all liens and claims with respect to the Work and period to which such payment request pertains except as specifically reserved and noted on such request.

6.03 *Progress Payments; Retainage*

A. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment each month during performance of the Work as provided in paragraphs 6.03.A.1 and 6.03.A.2 below. All such payments will be measured by the schedule of values established in the Bid Form (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 in the General Requirements:

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 ENGINEER may determine or OWNER may withhold, in accordance with paragraph 15.03 of the General Conditions:

a. 90% of Work completed (with the balance being retainage). If the Work has been 50% completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and

b. 90% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

OWNER reserves the right to withhold payment, in whole or in part to the extent necessary to protect itself from a loss on account of any of the following:

1. Defective work.
2. Evidence indicating the probable filing of claims by other parties against CONTRACTOR which may adversely affect OWNER.
3. Failure of CONTRACTOR to make payments due to subcontractors, material suppliers, or employees.
4. Damage to OWNER or a third party.

2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% the General Conditions and less 100% of ENGINEER's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.04 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

6.05 *Contractor's Records*

A. CONTRACTOR shall maintain proper account records for the scope of all services of this Agreement and provide an accounting for all charges and expenditures as may be necessary for audit purposes. All such records shall be subject to inspection and examination by OWNER's representatives at reasonable business hours.

ARTICLE 7 - INTEREST

7.01 All moneys not paid within 60 days when due as provided in Article 15 of the General Conditions shall bear interest at the current prime rate up to a maximum of 12% per annum.

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

- A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. CONTRACTOR has visited the Site 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 federal, state, and local 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 contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions.
- E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto
- F. CONTRACTOR does not consider that any 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 Documents.
- 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 correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. 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.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following parts, each of which is as fully a part of this Agreement as if set out herein:
 - 1. Invitation to Bidders
 - 2. Instructions to Bidders

3. Bid Bond
4. General Conditions
5. Supplementary Conditions
6. Agreement
7. Performance & Payment Bond
8. Special Provisions
9. Plan Sheets (1 total 11"x17" sheets)
10. Addenda (numbers _____ to _____, inclusive);
11. Exhibits to this Agreement (enumerated as follows):
 - a. CONTRACTOR'S Bid Form;
 - b. State Form 96;
 - c. Non-Collusion Affidavit;
 - d. Notice of Award;
 - e. Notice to Proceed;
 - g. Documentation submitted by CONTRACTOR prior to Notice of Award;
12. The following which are to be executed after the Effective Date of the Agreement and are attached hereto:
 - a. Certificate of Substantial Completion
 - b. Application for Payment
 - c. Maintenance Bond
13. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Written Amendments;
 - b. Work Change Directives;
 - c. Change Order(s).

B. The documents listed in paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above). In resolving conflicts, errors, discrepancies and disputes concerning the Scope of Work to be performed by CONTRACTOR, and other rights and obligations of OWNER and CONTRACTOR, the document expressing the greater quantity, quality or other scope of work in question, or imposing the greater obligation upon CONTRACTOR and affording the greater right or remedy to OWNER shall govern.

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 Articles 3, 10, 11, and 12 of the General Conditions.

ARTICLE 10 – GENERAL PROVISIONS

10.01 Terms

A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

10.02 General

A. CONTRACTOR agrees to indemnify and hold harmless OWNER and its officers, agents, officials and employees for any and all claims, actions, causes of action, judgments and liens

arising out of and negligent act or omission by CONTRACTOR or any of its officers, agents, officials, employees, or subcontractors or any defect in materials or workmanship of any supply, materials, mechanism or other product or service which it or any of its officers, agents, officials, employees, or subcontractors has supplied to OWNER or has used in connection with this Agreement and regardless of whether or not it is caused in part by a party indemnified herein under. Such indemnity shall include attorney's fees and all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein.

10.03 *Abandonment, Default, and Termination*

10.03.01 OWNER shall have the right to abandon the work contracted for in this Agreement without penalty. If OWNER abandons the work described herein, CONTRACTOR shall deliver to OWNER all surveys notes, drawings, specifications and estimates completed or partially completed and these shall become the property of OWNER. The earned value of the work performed shall be based upon an estimate of the proportion between the work performed by CONTRACTOR under this Agreement and the work which CONTRACTOR was obligated to perform under this Agreement. This proportion shall be mutually agreed upon by OWNER and CONTRACTOR. The payment as made to CONTRACTOR shall be paid as a final payment in full settlement of his services hereunder.

10.03.02 If CONTRACTOR defaults or fails to fulfill in a timely and proper manner the obligations pursuant to this Agreement, OWNER may, after seven (7) days written notice to has been delivered to CONTRACTOR, and without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due to CONTRACTOR. In the alternative, OWNER, at its option, may terminate this Agreement and take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by CONTRACTOR, and may finish the project by whatever method it may deem expedient, and if the such action exceeds the unpaid balance of the sum amount, CONTRACTOR or his surety, shall pay the difference to OWNER.

10.03.03 Default: If CONTRACTOR breaches this Agreement or fails to perform the work in an acceptable manner, he shall be considered in default. Any one or more of the following will be considered a default:

1. Failure to begin the work under this Agreement within the time specified.
2. Failure to perform the work with sufficient supervision, workmen, equipment and materials to insure prompt completion of said work.
3. Unsuitable performance of the work as determined by CITY ENGINEER or his representative.
4. Neglecting or refusing to remove defective materials or failure to perform anew such work as shall have been rejected.
5. Discontinuing the prosecution of the work or any part of it.
6. Inability to finance the work adequately.
7. If, for any other reason, CONTRACTOR breaches this Agreement or fails to carry on the work in an acceptable manner.

10.03.04 OWNER shall send CONTRACTOR a written notice of default. If CONTRACTOR, or his Surety, within a period of ten (10) days after such notice, fails to remedy the default, then OWNER shall have full power and authority, without violation the Contract, to take the prosecution of the work out of the hands of said CONTRACTOR, to appropriate or use any or all materials and equipment on the ground as may be suitable and acceptable, and may at his option, turn the work over to the Surety, or enter into an agreement with another Contractor for the completion of the Contract according to the terms and provisions thereof, or OWNER may use such other methods as, in its opinion, shall be required for the completion of said Contract in an acceptable manner.

10.03.05 All cost of completing the work under the Contract shall be deducted from the monies due or which may become due said CONTRACTOR. In case the expenses so incurred by OWNER shall be less than the sum which would have been payable under the Contract if it had been completed by said CONTRACTOR, CONTRACTOR shall be entitled to receive the difference. However, in case such expense shall exceed the sum which would have been payable under the Contract, CONTRACTOR and his Surety will be liable and shall pay to OWNER the amount of said excess. By taking over the prosecution of the work, OWNER does not forfeit the right to recover damages from

CONTRACTOR or his Surety for his failure to complete the work in the time specified.

10.03.06 Notwithstanding any other provision of the is Agreement, if funds for the continued fulfillment of the Agreement by OWNER are at any time not forthcoming or are insufficient, through failure of any entity to appropriate the funds or otherwise, then OWNER shall have the right to terminate this Agreement without penalty by giving prior written notice documenting the lack of funding in which instance unless otherwise agreed to by the parties, this Agreement shall terminate and become null and void on the last day of the fiscal period for which appropriation were received.

10.03.07 OWNER agrees that it will make its best effort to obtain sufficient funds, including but not limited to, including in its budget for each fiscal period during the term hereof a request for sufficient funds to meet its obligations hereunder in full.

10.04 *Successors and Assigns*

A. Both parties agree that for the purpose of this Agreement, CONTRACTOR shall be an Independent Contractor and not an employee of OWNER.

B. No portion of this Agreement shall be sublet, assigned or otherwise disposed of by CONTRACTOR except with the written consent of OWNER being first obtained. Consent to sublet, assign, or otherwise dispose of any portion of this Agreement shall not be construed to relieve CONTRACTOR of any responsibility of the fulfillment of this Agreement.

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

10.05 *Insurance*

10.05.01 CONTRACTOR shall, as a prerequisite to this Agreement, purchase and thereafter maintain such insurance as will protect him from the claims set forth below which may arise out of or result from CONTRACTOR's operations under this Agreement, whether such operations be by CONTRACTOR or by any SUBCONTRACTORS or by anyone directly or indirectly employed by any or them, or by anyone for whose acts any of them may be liable. The limits of liability for the insurance required by paragraph 5.03 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 paragraph 5.03 of the General Conditions:

- a. State: Statutory
- b. Applicable Federal (e.g., Longshoreman's): Statutory
- c. Employer's Liability: \$1,000,000

2. Contractor's General Liability under paragraph 5.03 of the General Conditions which shall include completed operations and product liability coverage and eliminate the exclusion with respect to property under the care, custody and control of Contractor:

- a. General Aggregate \$2,000,000
- b. Products – Completed Operations Aggregate \$2,000,000
- c. Personal and Advertising Injury \$1,000,000
- d. Each Occurrence (Bodily Injury and Property Damage) \$1,000,000
- e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.
- f. Excess or Umbrella Liability
 - 1) General Aggregate \$5,000,000
 - 2) Each Occurrence \$5,000,000
- g. Fire Damage: \$ 250,000 (any one fire)

3. Automobile Liability under paragraph 5.03 of the General Conditions:

- a. Bodily Injury:
- b. Each Person \$1,000,000
- c. Each Accident \$1,000,000
- d. Property Damage: Each Accident \$1,000,000
- e. Combined Single: Limit of \$1,000,000

4. Engineer and Resident Project Representative or Owner if no Resident Project Representative is appointed shall also be included on policy as additional insured.

10.05.02 CONTRACTOR's comprehensive general liability insurance shall also provide coverage for the following:

- 1. Premises and operations;
- 2. Contractual liability insurance as applicable to any hold-harmless agreements
- 3. Completed operations and products; which also must be maintained for a minimum period of two years after final payment and CONTRACTOR shall continue to provide evidence of such coverage to city on an annual basis during the aforementioned period; and
- 4. Broad form property damage - including completed operations;
- 5. Fellow employee claims under Personal Injury;
- 6. Independent Contractors.

10.05.03 With the prior written approval of OWNER, CONTRACTOR may substitute different types or amounts of coverage for those specified as long as the total amount of required protection is not reduced.

10.05.04 Certificates of Insurance, naming the City of Shelbyville as an "additional insured", showing such coverage then in force (but not less than the amount shown above) shall be on file with OWNER prior to commencement of work. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled or non-renewed until at least sixty (60) days prior written notice has been received by OWNER.

10.06 *Necessary Documentation*

- A. CONTRACTOR certifies that it will furnish OWNER any and all documentation, certification, authorization, license, permit or registration required by the laws or rules and regulations of the City of Shelbyville, the State of Indiana, the United States, and any other regulatory agency with jurisdiction over the project. CONTRACTOR further certifies that it is now and will maintain in good standing with such governmental agencies and that it will keep its license, permit registration, authorization or certification in force during the term of this Agreement.

10.07 *Applicable Laws*

- A. CONTRACTOR agrees to comply with all federal, state, and local laws, rules and regulations applicable to CONTRACTOR in performing work pursuant to this Agreement, including, but not limited to, discrimination in employment, prevailing wage laws, conflicts of interest, public notice, accounting records and requirements. Unless otherwise specified, this Agreement shall be governed by the laws of the United States, and the State of Indiana, and by all Municipal Ordinances and Codes of the City of Shelbyville.

10.08 *Non-Discrimination*

- A. CONTRACTOR and subcontractors shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to hire,

tenure, terms, training, conditions or privileges of employment, because of race, sex, color, religion, national origin, ancestry, age, handicap, or disabled veteran status. Breach of this covenant may be regarded as a material breach of the Agreement.

10.09 *Workmanship and Quality of Materials*

10.09.01 CONTRACTOR shall guarantee the work for a period of one (1) year from the date of substantial completion. Failure of any portion of the work within one (1) year due to improper construction, materials of construction, or design may result in a refund to OWNER of the purchase price of that portion which failed or may result in the forfeiture of CONTRACTOR's Performance Bond.

10.09.02 OR EQUAL: Wherever in any of the Contract Documents an article, material or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vendor, the term "Or Equal" or the term "The Equivalent" if not inserted, shall be implied, and it is done for the express purpose of establishing a basis of durability and efficiency and not for the purpose of limiting completion. Whenever material or equipment is submitted for approval as being equal to that specified, the submittal shall include sufficient information and data to demonstrate that the material or equipment conforms to the Contract requirements. The decision as to whether or not such material or equipment is equal to that specified shall be made by the ENGINEER. The approval by the ENGINEER of alternate material or equipment as being equivalent to that specified, shall not in any way relieve CONTRACTOR of responsibility for failure of the material or equipment due to faulty design, material, or workmanship, to perform the function required by the Contract Documents.

10.09.03 OWNER shall be the sole judge of the sufficiency of workmanship and quality of materials. Disputes shall be resolved by the ENGINEER and are not subject to arbitration.

10.10 *Safety*

A. CONTRACTOR shall be responsible for the safety of employees at all times and shall provide all equipment necessary to insure their safety. CONTRACTOR shall ensure the enforcement of all applicable safety rules, regulations, ordinances and laws, whether federal, state or local.

10.11 *Amendments / Changes*

10.11.01 Except as provided in Paragraph 10.11.02, this Agreement may be amended only by written instrument signed by both OWNER and CONTRACTOR.

10.11.02 Without invalidating the Agreement and without notice to any surety, OWNER may at any time or from time to time, order, in writing, additions, deletions or revisions in the Work. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents.

10.11.03 If CONTRACTOR believes that any direction of OWNER under paragraph 10.11.02, or any other event or condition, will result in an increase in the Contract time or price, he shall file written notice with OWNER no later than fifteen (15) days after the occurrence of the event giving rise to the claim and stating the general nature of the claim with supporting data. No claim for any adjustment of the Contract time or price will be valid if not submitted in accordance with this Paragraph.

10.11.04 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 dispute or disagreement except as CONTRACTOR and OWNER may otherwise agree in writing.

10.12 *Performance, Payment, and Maintenance Bonds*

10.12.01 CONTRACTOR shall provide CITY with a Performance & Payment Bond in the amount of one hundred percent (100%) of the contract amount. Performance and Payment Bonds may be retained by the CITY until ninety (90) days after issuance of certificate of substantial completion.

10.12.02 Failure by CONTRACTOR to perform the work in a timely or satisfactory fashion may result

in forfeiture of CONTRACTOR's Performance Bond.

10.12.03 Upon Issuance of Certificate of Substantial Completion, CONTRACTOR shall provide CITY with a Maintenance Bond in the amount of ten (10%) of the contract amount. Maintenance Bond shall be retained by the CITY for three (3) years from the date of execution of said Maintenance Bond.

10.12.04 If the surety on any bond furnished by CONTRACTOR becomes a party to supervision, liquidation, rehabilitation action pursuant I.C. 27-9 et seq. or its right to do business in the State of Indiana is terminated, CONTRACTOR shall, within thirty days thereafter, substitute another bond and surety, both of which must be acceptable to CITY.

10.13 *Payment of Subcontractors*

A. CONTRACTOR shall pay all subcontractors, laborers, material suppliers and those performing services to CONTRACTOR on the project under this Agreement. CITY may, as a condition precedent to any payment hereunder, require CONTRACTOR to submit satisfactory evidence of payments of any and all claims of subcontractors, laborers, material suppliers, and those furnishing services to CONTRACTOR. Upon receipt of a lawful claim, CITY shall withhold money due to CONTRACTOR in a sufficient amount to pay the subcontractors, laborer, material suppliers, and those furnishing services to CONTRACTOR.

10.14 *Written Notice*

A. Written notice shall be considered as served when delivered in person or sent by mail to the individual, firm, or corporation, or to the last business address of such known to CONTRACTOR who serves the Notice. Notice shall be sent as follows:

TO CITY:

TO CONTRACTOR:

Tyler Comstock, P.E., City Engineer
City of Shelbyville
44 West Washington Street
Shelbyville, Indiana 46176

10.15 *Severability and Waiver*

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. Failure of either party to insist on strict compliance with the provision of this Agreement shall not constitute waiver of that party's right to demand later compliance with the same or other provisions of this Agreement.

10.16 *Notice to Proceed*

A. CONTRACTOR shall not begin the work pursuant to the Contract Documents until it receives an official written Notice to Proceed from the City Engineer. In the event that any contract is canceled after an award has been made but prior to the issuing of the Notice to Proceed, no reimbursement will be made for any expenses accrued relative to this contract during that period.

10.17 *Steel Product*

10.17.01 To comply with Indiana Code 5-16-8, affecting all contracts for the construction, reconstruction, alteration, repair, improvement or maintenance of public works, the following provision shall be added: If steel products are to be utilized or supplied in the performance of any contract or subcontractor, only domestic steel products shall be used. Should OWNER feel that the cost of domestic steel is unreasonable, OWNER will notify CONTRACTOR in writing of this fact.

10.17.02 Domestic Steel products are defined as follows:

“Products rolled, formed, shaped, drawn extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two (2) or more of such operations, from steel made in the United States by open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.”

10.17.03 The United States is defined to include all territory subject to the jurisdiction of the United States.

10.17.04 OWNER may not authorize or make any payment to CONTRACTOR unless OWNER is satisfied that CONTRACTOR has fully complied with this provision.

10.18 *Assignment of Contract*

A. 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, moneys that may become due and moneys that are 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.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

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

OWNER:

CONTRACTOR:

CITY OF SHELBYVILLE
BOARD OF PUBLIC WORKS & SAFETY
BY:

By: _____

[CORPORATE SEAL]

Scott Furgeson, Mayor

Attest _____

Tom Reaves, Member

Address for giving notices:

Rodney Meyerholtz, Member

Attest _____
Scott, Asher Clerk Treasurer

License No. _____
(Where applicable)

Agent for service of process: _____

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

Address for giving notices:
44 W. Washington Street
Shelbyville, IN 46176

Designated Representative:
Name: _____

Title: _____

Address: _____

Phone: _____

Facsimile: _____

SECTION XI

PERFORMANCE & PAYMENT BOND

PERFORMANCE & PAYMENT BOND

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

CONTRACTOR (Name and Address):

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

OWNER:

City of Shelbyville, Indiana
44 W. Washington Street
Shelbyville, Indiana 46176

CONTRACT

Date:

Amount:

Description:

BOND

Date (Not earlier than Contract Date):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Performance & Payment Bond to be duly executed on its behalf by its authorized officer, agent or representative.

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

EJCDC No. 1910-28-B (1996 Edition) Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors of America, the American Institute of Architects, the American Subcontractors Association, and the Associated Specialty Contractors.

1. The CONTRACTOR and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Contract, which is incorporated herein by reference.

2. If the CONTRACTOR performs the Contract, the Surety and the CONTRACTOR have no obligation under this Bond, except to participate in conferences as provided in paragraph 3.1.

3. If there is no OWNER Default, the Surety's obligation under this Bond shall arise after:

3.1. The OWNER has notified the CONTRACTOR and the Surety at the addresses described in paragraph 10 below, that the OWNER is considering declaring a CONTRACTOR Default and has requested and attempted to arrange a conference with the CONTRACTOR and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Contract. If the OWNER, the CONTRACTOR and the Surety agree, the CONTRACTOR shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the OWNER's right, if any, subsequently to declare a CONTRACTOR Default; and

3.2. The OWNER has declared a CONTRACTOR Default and formally terminated the CONTRACTOR's right to complete the Contract. Such CONTRACTOR Default shall not be declared earlier than twenty days after the CONTRACTOR and the Surety have received notice as provided in paragraph 3.1; and

3.3. The OWNER has agreed to pay the Balance of the Contract Price to:

3.3.1. The Surety in accordance with the terms of the Contract;

3.3.2. Another contractor selected pursuant to paragraph 4.3 to perform the Contract.

4. 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:

4.1. Arrange for the CONTRACTOR, with consent of the OWNER, to perform and complete the Contract; or

4.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or

4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the OWNER for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the OWNER and the contractor selected with the OWNER's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the Bonds issued on the Contract, and pay to the OWNER the amount of damages as described in paragraph 6 in excess of the Balance of the Contract Price incurred by the OWNER resulting from the CONTRACTOR Default; or

4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances;

4.4.1. After investigation, determine the amount for which it may be liable to the OWNER and, as soon as practicable after the amount is determined, tender payment therefor to the OWNER; or

4.4.2. Deny liability in whole or in part and notify the OWNER citing reasons therefor.

5. If the Surety does not proceed as provided in paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen 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 4.4, and the OWNER refuses the payment tendered 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.

6. After the OWNER has terminated the CONTRACTOR's right to complete the Contract, and if the Surety elects to act under paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the OWNER shall not be greater than those of the CONTRACTOR under the Contract, and the responsibilities of the OWNER to the Surety shall not be greater than those of the OWNER under the Contract. To a limit of the amount of this Bond, but subject to commitment by the OWNER of the Balance of the Contract Price to mitigation of costs and damages on the Contract, the Surety is obligated without duplication for:

6.1. The responsibilities of the CONTRACTOR for correction of defective Work and completion of the Contract;

6.2. 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 4; and

6.3. Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of the CONTRACTOR.

7. The Surety shall not be liable to the OWNER or others for obligations of the CONTRACTOR that are unrelated to the 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, or successors.

8. The Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.

9. 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 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 period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10. Notice to the Surety, the OWNER or the CONTRACTOR shall be mailed or delivered to the address shown on the signature page.

11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12. Definitions.

12.1. Balance of the Contract Price: The total amount payable by the OWNER to the CONTRACTOR under the Contract after all proper adjustments have been made, including allowance to the CONTRACTOR of 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 Contract.

12.2. Contract: The agreement between the OWNER and the CONTRACTOR identified on the signature page, including all Contract Documents and changes thereto.

12.3. CONTRACTOR Default: Failure of the CONTRACTOR, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.

12.4. OWNER Default: Failure of the OWNER, which has neither been remedied nor waived, to pay the CONTRACTOR as required by the Contract or to perform and complete or comply with the other terms thereof.

SECTION XII
NOTICE TO PROCEED

NOTICE TO PROCEED

Date _____

TO: _____
(CONTRACTOR)

ADDRESS: _____

Contract: _____

Project:

OWNER'S CONTRACT NO.

You are notified that the Contract Times under the above contract will commence to run on _____. By that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 4 of the Agreement the date of Substantial Completion is and the date of readiness for final payment is .

Before you may start any Work at the Site, paragraph 2.02 of the General Conditions provides that you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Also, before you may start any Work at the Site, you must

Notify the City of Shelbyville, Street and Engineering Departments 48 hours prior to construction

City of Shelbyville, Indiana
(OWNER)

By: _____
(AUTHORIZED SIGNATURE)

(TITLE)

Copy to ENGINEER

CERTIFICATE OF SUBSTANTIAL COMPLETION

CERTIFICATE OF SUBSTANTIAL COMPLETION

DATE OF ISSUANCE _____

OWNER City of Shelbyville

CONTRACTOR _____

Contract: _____

Project: _____

OWNER's Contract No. _____

ENGINEER: Tyler Comstock, P.E.– City Engineer

This Certificate of Substantial Completion applies to all Work under the Contract Documents or to the following specified parts thereof:

To _____
OWNER

And To _____
CONTRACTOR

The Work to which this Certificate applies has been inspected by authorized representatives of OWNER, CONTRACTOR and ENGINEER, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

DATE OF SUBSTANTIAL COMPLETION

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR within 15 days of the above date of Substantial Completion.

EJCDC No. 1910-8-D (1996 Edition)

Prepared by the Engineers' Joint Contract Documents Committee and endorsed by The Associated General Contractors of America and the Construction Specifications Institute.

The responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties and guarantees shall be as follows:

OWNER: City of Shelbyville

CONTRACTOR: _____

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

[For items to be attached see definition of Substantial Completion as supplemented and other specifically noted conditions precedent to achieving Substantial Completion as required by Contract Documents.]

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 Documents.

Executed by ENGINEER on _____
Date

ENGINEER

By: _____
(Authorized Signature)

CONTRACTOR accepts this Certificate of Substantial Completion on _____
Date

CONTRACTOR

By: _____
(Authorized Signature)

OWNER accepts this Certificate of Substantial Completion on _____
Date

OWNER

By: _____
(Authorized Signature)

SECTION XIV

APPLICATION FOR PAYMENT

APPLICATION FOR PAYMENT NO. _____

To: City of Shelbyville _____
From: _____
Contract: _____
Project: _____
OWNER's Contract No. _____
For Work accomplished through the date of: _____

1.	Original Contract Price:	\$	_____
2.	Net change by Change Orders and Written Amendments (+ or -):	\$	_____
3.	Current Contract Price (1 plus 2):	\$	_____
4.	Total completed and stored to date:	\$	_____
5.	Retainage (per Agreement):		
	_____ % of completed Work:	\$	_____
	_____ % of stored material:	\$	_____
	Total Retainage:	\$	_____
6.	Total completed and stored to date less retainage (4 minus 5):	\$	_____
7.	Less previous Application for Payments:	\$	_____
8.	DUE THIS APPLICATION (6 MINUS 7):	\$	_____

Accompanying Documentation: _____

CONTRACTOR'S Certification:

The undersigned CONTRACTOR certifies that (1) all previous progress payments received from OWNER on account of Work done under the Contract referred to above have been applied on account to discharge CONTRACTOR's legitimate obligations incurred in connection with Work covered by prior Applications for Payment numbered 1 through _____ inclusive; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to OWNER at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to OWNER indemnifying OWNER against any such Lien, security interest or encumbrance); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective.

Dated _____

CONTRACTOR

By: _____

State of _____

County of _____

Subscribed and sworn to before me this _____
day of _____, _____

Notary Public
My Commission expires: _____

Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

Dated _____
ENGINEER _____

By: _____

EJCDC No. 1910-8-E (1996 Edition)
Prepared by the Engineers Joint Contract Documents Committee and endorsed by The Associated General Contractors of America and the Construction Specification Institute.

ITEM	UNIT PRICE	ESTIMATED QUANTITY	SCHEDULE OF VALUES AMOUNT	QUANTITY COMPLETED	AMOUNT	%	MATERIAL STORED	AMOUNT COMPLETED AND STORED
1.	\$		\$		\$		\$	\$
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								
15.								
16.								
17.								
18.								
19.								
20.								
21.								
22.								
23.								
24.								
25.								
26.								
27.								
28.								
29.								
30.								
TOTAL			\$		\$		\$	\$

Note: Total Schedule of Values Amount should equal the current Contract Price

SECTION XV
MAINTENANCE BOND

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That (Contractor Name _____), as Principal and (Surety Name) _____ a Corporation Surety, are held and firmly bound unto the City of Shelbyville, Indiana, in the penal sum of (Written Amount _____) (10% of Amount of Contract _____) (\$ _____) in lawful money of the United States of America for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, executors, administrators, trustees, successors, and assigns, jointly and severally, firmly by these presents.

Dated this _____ day of _____, 20____.

The condition of this obligation is such that:

WHEREAS, said Principal entered into a written contract with the City of Shelbyville, Indiana dated _____, 20____

Project Name:

all in compliance with the drawings and specifications therefore, made a part of said Contract and on file in the office of

City Clerk-Treasurer - City Hall
44 W. Washington Street
Shelbyville, Indiana 46176

NOW, THEREFORE, if said Principal shall pay or cause to be paid to the City of Shelbyville, Indiana, all damage, loss, and expense which may result by reason of defective materials and/or workmanship in connection with said work, occurring within a period of three (3) years for all projects, from and after acceptance of said project by the City of Shelbyville, Indiana; and if Principal shall pay or cause to be paid all labor and materials, including the prime contractor and all subcontractors; and if principal shall save and hold the City of Shelbyville, Indiana harmless from all damages, loss, and expense occasioned by or resulting from any failure whatsoever of said Principal, then this obligation shall be null and void, otherwise to be and remain in full force and effect.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligation of this Bond.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers, and the said Surety has caused these presents to be executed in its attorney-in-fact, duly authorized so to do, the day and year first above written.

(Contractor Name)
Contractor (Principal)

BY:

ATTEST: (S E A L)

_____ Date: _____

_____ Date: _____

Title:

Title:

_____ Date: _____

_____ Date: _____

Attorney-In-Fact

Surety

(S E A L)

(Accompany this Bond with Power-of-Attorney)

APPROVED AS TO FORM

CITY OF SHELBYVILLE BOARD OF PUBLIC WORKS

_____ Date: _____

Scott Furgeson, Mayor

_____ Date: _____

Tom Reaves, Member

_____ Date: _____

Rodney Meyerholtz, Member

SECTION XVI
SPECIAL PROVISIONS

INDEX TO SPECIAL PROVISIONS
ADAMS GLASS BUILDING DEMOLITION
SHELBYVILLE, INDIANA

<u>SECTION</u>	<u>SECTION NO.</u>
Contract Documents	SP 1
Contract Time	SP 2
Permits	SP 3
Contract Close Out	SP 4
Maintenance of Traffic	SP 5
Construction Engineering	SP 6
Maintenance During Construction	SP 7
Coordination/Cooperation with Utilities	SP 8
Existing Conditions	SP 9
Material Acceptance	SP 10
Excess Material Disposal	SP 11
Restoration of Disturbed Areas	SP 12
Top Soil	SP 13
Barricades	SP 14
Construction Noise	SP 15
Construction Supervision	SP 16
Erosion, Sediment Control, and Street Cleaning	SP 17
Notification of Affected Residents	SP 18
Construction Schedule	SP 19
Saw Cutting of Pavement	SP 20
Material Delivery Ticket	SP 21
Progress Billing Estimate	SP 22
Pay Items	SP 23
Undistributed Quantities	SP 24
Pre-Designation of Project Supervision and Subcontractors	SP 25
Details for Payment for Common Excavation and Grading, Drive Removal,	SP 26
Work By Others	SP 27
PCCP Pavement Construction	SP 28
Right of Way Clearing	SP 29

SP 1 Contract Documents

The City of Shelbyville Standard Drawings and Specifications dated 2020 and the Indiana Department of Transportation, 2018 Standard Specifications except for Sections 102 103 shall be used in conjunction with these Plans, Contract Forms, General Provisions, Special Provisions, Standard Sheets and any addenda, which may be issued for this project.

In the event that conflicting standards and/or specifications exist, the following order shall govern.

1. Special Provisions
2. Instructions to Bidders
3. Invitation to Bidders
4. Supplementary Conditions
5. General Conditions
6. Contract Agreement
7. All Other Contract Documents
8. Construction Plans
9. Shelbyville Construction Standards
10. Latest INDOT Standard Specifications

It is the intent of these Contract Documents to describe a functionally complete project to be constructed in accordance therewith. Any work, materials or equipment that may reasonably be inferred will be supplied whether or not specifically called for.

SP 2 Contract Time

The successful Bidder of the work shall be prepared to substantially complete road reconstruction per time described in 4.02 of Contract Agreement.

SP 3 Permits

N/A

SP 4 Contract Close Out

Prior to release of final retainage amount to CONTRACTOR, the following process must occur:

1. Project walk-through to be scheduled and completed with representatives present from the OWNER, CONTRACTOR, any and all applicable sub-contractors. Punch list to be generated from this meeting.
2. Punch list to be completed to satisfaction of OWNER.
3. CONTRACTOR will submit request for release of retainage along with Waiver of Liens, Consent of Surety to Final Payment, and One Year Warranty Letter.
4. OWNER will present final close-out to Shelbyville Board of Public Works and Safety. Upon approval by BPW, retainage shall be released to CONTRACTOR.

SP 5 Maintenance of Traffic

All traffic control shall be in accordance with the Indiana Work Zone Safety Manual (IWZSM) and the Maintenance of Traffic detail in the Construction Drawings. No direct payment shall be made for this work, but the cost thereof shall be included in the cost of other items of the Contract. **The project will require maintenance of traffic along Broadway Street and Harrison Street. Coordination will be required with both the City of Shelbyville and the Indiana Department of Transportation (INDOT).**

SP 6 Construction Engineering

All decisions must be coordinated with City Engineer.

SP 7 Maintenance During Construction

The work shall be maintained during construction and until the contract is accepted. This maintenance shall constitute continuous and effective work prosecuted day by day with adequate equipment and forces to the end that the roadway, curbs, structures, barricades, and construction signs are kept in satisfactory condition at all times.

SP 8 Coordination/Cooperation with Utilities

The CONTRACTOR shall coordinate and cooperate with all utility companies whose facilities are located within the project areas. Coordination with the utility companies or their contractors shall be maintained to expedite safe and orderly modifications to utility facilities as may be required by construction of these projects.

Notification of the intended work has been sent to the appropriate utility companies. The CONTRACTOR shall contact all utilities to adjust their facilities (valve boxes/stems, castings, hydrants, etc.), unless the work is included in the list of pay items.

Water Handholes

Indiana American Water Company
Miguel Morales
317-398-5361

WWTP

Shelbyville Water Resource Recovery
Shelly Higdon
317-392-5131

Utility Pole

Duke Energy
Luke Laugle
317-398-5345

Gas

Vectren
Mostofa Khallad
765-2872150

Damage to any of the existing public utility facilities within the limits of the project, caused by the CONTRACTOR's operations, shall be repaired / replaced by the CONTRACTOR at no expense to the OWNER.

SP 9 Existing Conditions

Where new work is to be fitted to existing conditions, the CONTRACTOR shall check all dimensions, elevations and conditions in the field and report any errors or discrepancies to ENGINEER prior to the commencement of any construction activities or assume responsibility for their correctness and the fit of new parts to old. If such parts do not fit properly, CONTRACTOR shall make, at his expense, such alterations to new parts as may be necessary to assure proper fits and connections, which meet the approval of the ENGINEER.

No direct payment shall be made for this work, but, the cost thereof shall be included in the costs of other items of the Contract.

SP 10 Material Acceptance

All asphalt, concrete and aggregate materials used for this project shall be produced from an INDOT approved source. The CONTRACTOR shall submit material supplier's names and addresses to the ENGINEER, when requested. If requested, the CONTRACTOR shall submit to the ENGINEER a copy of the INDOT certification for each material supplier.

All concrete mixtures shall be produced by an INDOT Certified concrete plant. If requested, the CONTRACTOR shall submit to the ENGINEER a copy of the INDOT certification for Concrete Producer and/or Quality Control Plan.

Material(s) acceptance shall be based on material certification from an INDOT approved source.

SP 11 Excess Material Disposal

All excess debris & material not to be salvaged shall be removed from the project site. Whether the CONTRACTOR uses a private or public waste site, the disposal must comply with all Federal, State and local ordinances and permit requirements. Upon request, the CONTRACTOR shall supply a copy of all permits obtained or applied for to the ENGINEER.

If a private site is utilized, it shall be with the written permission of the property owner on whose property the material is placed. The CONTRACTOR shall make all the necessary arrangements for obtaining suitable disposal locations. No direct payment shall be made for this work, but the cost thereof shall be included in the cost of other items in the Contract.

SP 12 Restoration of Disturbed Areas

All disturbed areas shall be graded as necessary and returned to original condition.

SP 13 Top Soil

The Contractor shall conduct his operations in a manner that the areas designated for the work to be seeded (specifically the 6" behind the curb above the aggregate), shall have a minimum depth of 4 inches of sufficient topsoil, in accordance with INDOT Standard Specifications Sections 621.03, 621.05 and 914.01. The Contract shall preserve a sufficient quantity of topsoil from the excavation work and will stockpile if necessary.

No additional compensation shall be allowed for excavation work necessary to retain suitable material for topsoil, stockpiling or placement of topsoil.

SP 14 Barricades

The CONTRACTOR shall provide their own barricades.

SP 15 Construction Noise

The CONTRACTOR shall be required to limit construction noise by maintaining his equipment in proper working order, thereby minimizing the effect of construction noise in the project area.

SP 16 Contractor's Supervision

The CONTRACTOR awarded the work will be required to maintain a superintendent with full authority to direct all construction operations and personnel on the site at all times while construction is in progress.

SP 17 Erosion, Sediment Control, and Street Cleaning

The CONTRACTOR shall provide effective dust/debris control in all phases. Loader-mounted pickup, power sweepers, or other types of pull type models shall be used in all phases of street cleaning.

The CONTRACTOR shall schedule and conduct his operation to minimize erosion of soils. Construction of drainage facilities and performance of other Contract work, which will contribute to the control of erosion and sedimentation, shall be carried on in conjunction with earthwork operation or as soon thereafter as practicable. The area of bare soils exposed at any one time by construction operation shall be kept to a minimum. Silt fence for perimeter protection shall be installed, as shown on the plans, prior to any land disturbing activities. Prior to suspension of construction operation for appreciable lengths of time, the CONTRACTOR shall shape the earthwork in a manner that will permit storm runoff with a minimum of erosion. Erosion control measures shall be paid according to the lump sum bid for Erosion Control.

Prior to suspension of construction operations for appreciable lengths of time, the CONTRACTOR shall shape the earthwork in a manner that will permit storm runoff with a minimum amount of erosion.

The maintenance of all erosion control practices should be done as needed on a weekly basis, after large storms and when directed by the ENGINEER or MS4 Operator. If the CONTRACTOR elects to use a pump to control ground and/or surface water, pump discharge filter bags must be used. The bags need to be located so the outflow does not cause erosion and sedimentation of receiving structures/streams and need to be located preferably on undisturbed, well vegetated areas away from open streams.

Vehicle and Equipment Maintenance: Onsite vehicle and equipment maintenance should only be used where it is impractical to send vehicles and equipment offsite for maintenance and repair. If maintenance must occur on site, the area where repairs are to be made must be located away from drainage courses. Drip pans and/or absorbent pads should be used during vehicle and equipment maintenance work that involves fluids, unless the maintenance work is performed over an impermeable surface in a dedicated maintenance area. Inspect onsite vehicles and equipment daily at the startup for leaks, and repair immediately. Properly dispose of used oils, fluids, lubricants and spill cleanup materials. Do not place used oil in a dumpster or pour into a storm drain or watercourse. Vehicle Fueling: Onsite vehicle and equipment fueling should only be used where it is impractical to send vehicles and equipment offsite for fueling. Drip pans and absorbent pads should be used during vehicle and equipment fueling, unless the fueling is performed over an impermeable surface in a dedicated fueling area. Nozzles used in vehicle and equipment fueling should be equipped with an automatic shutoff to control drips. Fueling operations should not be left unattended. Federal, state, and local requirements should be observed for any stationary above ground storage tanks. Debris Collection: To prevent clogging of the storm drainage system, litter and debris removal from drainage grates, trash, rocks, and ditch lines should be a priority. Construction debris and waste should be removed from the site biweekly or more frequently as needed. Construction material visible to the public should be stored in an orderly manner. Stormwater runoff should be prevented from contacting stored solid waste. Concrete Washout: Perform washout of concrete trucks offsite or in designated areas only. Do not washout concrete trucks into storm drains, open ditches, streets, or streams. Do not allow excess concrete to be dumped on site, except in designated areas. For onsite washout: locate washout area at least fifty (50) feet from storm drains, open ditches, or bodies of water; do not allow runoff from this area by constructing a temporary berm or holding area large enough for liquid and solid waste; wash out wastes into the designated area where the concrete can set and be broken up and disposed of properly.

The CONTRACTOR shall provide inlet protection for any street inlets downstream of the project limits. This work shall be included in the cost of the lump sum item Erosion Control.

SP 18 Notification of Affected Residents

CONTRACTOR shall provide the ENGINEER with a minimum of two (2) days notification, regarding his/her intent to start construction. City may distribute letters and/or make a press release notifying affected citizens and/or businesses of the CONTRACTOR's intent to start construction.

Notification of Affected Residents will not be paid for directly but shall be included in the cost of other items in the Contract.

SP 19 Construction Schedule

It is the responsibility of the CONTRACTOR, upon notification of acceptance of Bid, to prepare a construction schedule for establishing the controlling work activity.

If, in the opinion of the ENGINEER, the CONTRACTOR falls behind the progress schedule, the CONTRACTOR shall take such steps as may be necessary to improve his progress which may require him to increase the number of shifts and/or overtime operations, days of work, and/or the amount of construction planned, and to submit for approval such supplementary schedule or schedules as necessary to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the OWNER.

SP 20 Saw-Cutting of Pavement

In locations where the new pavement abuts the existing pavement edge, the existing pavement shall be saw cut with an approved concrete saw to assure a uniform, neat and flush edge with new pavement. The saw cut shall be thoroughly cleaned its entire length.

Saw cutting is required for curb removal and/or pavement removal by excavation. Saw cutting is not required when a milling machine is used to remove curbing and/or pavement unless the resulting milled edge is not uniform, neat and flush edge.

The saw cut work will not be paid for directly, but the cost thereof shall be included in the cost of other items in the Contract.

SP 21 Material Delivery Tickets

CONTRACTOR, at his/her expense, shall furnish ENGINEER material delivery tickets for bituminous mixture, concrete, and aggregate which is specified for measurement by weight and/or volume. The tickets shall be prepared at the weighing site by the CONTRACTOR or his representative and shall contain the following information: Ticket Serial Number, Date, Source of Supply, Material Designation (size and type), Truck Number, Time Weighed, Gross Weight (DR entered here if scale is direct reading type), Tare, and Net Weight. The original or duplicate tickets shall be provided to the OWNER.

Material delivery tickets shall be grouped by material, then date, and then street when submitted to the ENGINEER.

SP 22 Progress Estimate Billing

Progress estimate billings shall be submitted no more frequently than every 2 weeks. Progress estimate billings shall be submitted to ENGINEER on the form set forth in the Contract Documents for review, upon acceptance, a signed paper copy shall be delivered to ENGINEER for actual submittance of claim.

Billing must include the original pay items and units and not be converted to lump sum.

SP 23 Pay Items

CONTRACTOR to furnish and install all materials described in the Special Provisions and these Pay Items. The quantities shown in the Itemized Proposal are believed to be sufficient to complete the specified work; however, they are approximate and are shown for purpose of comparing bids. Payment to the CONTRACTOR will be made only for those quantities of work actually completed and accepted in accordance with the specifications.

SP 24 Undistributed Quantities

Pay Items denoted in the Itemized Proposal as “(Undistributed)” are for pay items, or a portion of the estimated quantity, which have not been specifically identified in the construction plans, but may be encountered on the project as incidental construction items.

SP 25 Pre-Designation of Project Supervision and Subcontractors

The City of Shelbyville reserves the right to reject any subcontractor based on work load in the project area and current or past performance. The City of Shelbyville also reserves the right to reject the use of any subcontractor, foreman, or superintendent proposed for this project based on current or past performance. Any prime or subcontractor as part of this contractor performing in amount exceeding 10% of the contract value shall declare the project superintendent to be assigned to the project after the low bidder has been identified prior to award. The City reserves the right to approve or disprove of personnel designated for this project prior to award of the project. Any contractor removing or re-assigning pre-designated and pre-approved personnel for this project agrees to pay a penalty of \$2,000 for removing said designated personnel.

SP 26 Details for Payment for Common Excavation and Grading, Drive Removal, and Clearing

Common Excavation shall include dirt, gravel, asphalt, railroad ties, and anything else found within reason in the road bed and embankment. Costs for disposal of these items are included in the common excavation cost.

SP 27 Work by Others

The City of Shelbyville will not provide signage for the project.

SP 28 Pavement Construction

Any pavement construction shall be completed per City of Shelbyville Construction Standards. Payment for any saw-cutting and joint construction will be included the Pavement item.

SP 29 Subgrade Treatment, Lime Stabilization

Any Lime Stabilization shall be placed per INDOT Standard for subgrade treatment type IB

[END OF SECTION]