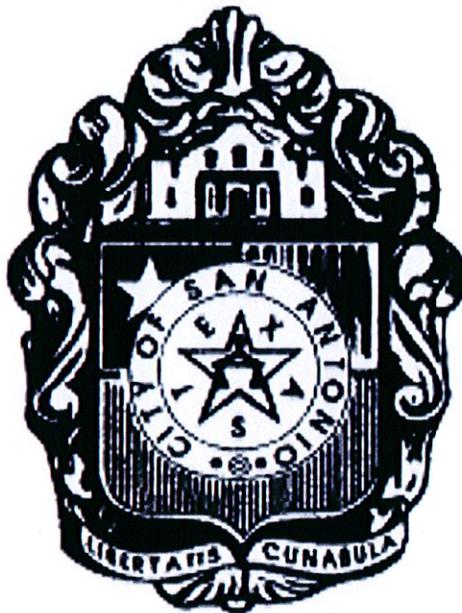
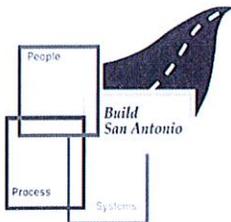


CITY OF SAN ANTONIO  
**CREIGHTON AVENUE ROADWAY  
RECONSTRUCTION**  
PROJECT MANUAL & SPECIFICATIONS



PREPARED FOR:

THE CITY OF SAN ANTONIO  
**CAPITAL IMPROVEMENT  
MANAGEMENT SERVICES (CIMS  
DEPARTMENT)**



*PREPARED BY:*

klotz  associates

*7550 IH-10 West*

*Northwest Center Suite 300*

*San Antonio, Texas 78229*

*Texas PE Firm Reg. #F-929*

*July 2012*

**CITY OF SAN ANTONIO, TEXAS**

**CREIGHTON AVENUE ROADWAY RECONSTRUCTION**

**PROJECT MANUAL SECTIONS**

<b>FORM</b>	<b>SECTION</b>
010	FORMAL INVITATION FOR BIDS (IFB) AND CONTRACT
020	BID FORM
025	UNIT PRICING FORM
040	STANDARD INSTRUCTIONS TO RESPONDENTS
050	SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA) PROGRAM
060	SUPPLEMENTAL CONDITIONS
081	GENERAL CONDITIONS
095	SAN ANTONIO WATER SYSTEM WATERWORKS AND SANITARY SEWER CONSTRUCTION
	PERFORMANCE BOND
	PAYMENT BOND
	HEAVY HIGHWAY WAGE DECISION TX120016 MOD#0 1062012
	UTILIZATION PLAN SBE SUB AND MWBE SUB
	CITY OF SAN ANTONIO STANDARD SPECIFICATIONS (included by reference) SPECIAL SPECIFICATIONS (included herein) SPECIAL PROVISIONS (MAY 2009) SPECIAL PROVISIONS (FEBRUARY 2012) (included by reference) SPECIAL PROVISIONS (JUNE 2010) (included by reference)
	SAWS STANDARD SPECIFICATIONS (included by reference) SPECIAL SPECIFICATIONS (included herein)
	CPS ENERGY REQUIREMENTS AND SPECIFICATIONS FOR CONSTRUCTION OF NATURAL GAS DISTRIBUTION FACILITIES

CITY OF SAN ANTONIO

Issued By: CIMS Department
ID NO.: 40-00252

Date Issued: July 9, 2012
Page 1 of 1

FORMAL INVITATION FOR BIDS (IFB) and CONTRACT
Creighton Street Improvements - (40-00252)

Sealed bids, subject to the Terms and Conditions of this Invitation for Bids and other contract provisions, will be received at the Office of the City Clerk, City Hall, 100 Military Plaza, 2nd floor San Antonio, Tx 78205 until 2:00 p.m. CST on Tuesday, August 7, 2012 and publicly read aloud at 114 W. Commerce, Municipal Plaza Building "B" Room. This is the solicitation deadline. Bids must be submitted in a sealed envelope and clearly marked with the due date of bid, bidder name, Project Name and ID NO. The City is not responsible for submissions not clearly and appropriately marked. Late submissions will be rejected and returned to bidder. A Non-Mandatory Pre-submittal conference will be held at 114 W. Commerce, San Antonio, TX 78205 in the 9th floor conference room on Tuesday, July 24, 2012 at 9:30 am.

TABLE A - This invitation includes the following Contract Documents:

- 010 Invitation for Bids and Contract Signature Page
020 Bid Form
025 Unit Pricing Form
040 Standard Instructions to Respondent
050.01 SBEDA Guidelines
Subcontractor/Supplier Utilization Plan
060 Supplemental Conditions
075 Performance Bond
076 Payment Bond
081 General Conditions for Construction Contracts
095 Special Conditions for SAWS & Sanitary Sewer Construction
Heavy/Hwy Wage Decision

Plans, Specifications and Special Conditions may be purchased at a cost of \$150.00 per set (tax included) from the office of Klotz Associates, Inc., 7550 IH-10 West, Ste 300, San Antonio, TX 78229 Phone- (210) 736-0425. No refund will be made for plan sets that are returned. Addenda will be posted on the web at www.sanantonio.gov/rfp listings along with this solicitation. Changes to Plans, Specifications and Special Conditions will be included in an addendum and may be obtained from the office of Klotz Associates, Inc.. Bidder understands and agrees that bidder is responsible for obtaining addenda and adhering to all requirements in addenda. City is not responsible for incorrect information obtained through other sources.

The following documents (fully completed and with original signatures) constitute the required information to be submitted as a part of the bid proposal clearly marked on the outside of the sealed envelope with the due date of bid, bidder name, Project Name and ID NO as follows:

- 1.) 010 Invitation for Bids and Contract Signature Page
2.) 020 Bid Form
3.) 025 Unit Pricing Form
5.) Bid Bond
6.) Subcontractor/Supplier Utilization Plan
7.) Signed Addenda Acknowledgement Forms

It is understood and agreed that the work is to be completed in full on or before 300 calendar days. This project does not include hazardous environmental work. This project requires 2 project sign(s).

Respondents must demonstrate commitment to satisfy a twenty-five percent (25%) SBE subcontracting and a fifteen percent (15%) MWBE subcontracting. In the absence of a waiver granted by the Small Business Office, failure of a Respondent to commit to satisfying the SBE and MWBE subcontracting goals shall render its response NON-RESPONSIVE.

This is a Public Works Contract and chapter 2258 of the Texas Government Code requires that not less than the prevailing wage rate for work of a similar character in this locality shall be paid all laborers, workmen, and mechanics employed in the construction thereof. The Wage Decision Number TX120016 01/06/2012 TX16 shall be used on this contract, which is available on the web at http://www.wdol.gov/dba.aspx#0.

The undersigned, by his/her signature, represents that he/she is authorized to bind the bidder to fully comply with Contract Documents for the amount(s) shown on the accompanying bid sheet(s). The work proposed to be done shall be accepted when fully completed and finished to the entire satisfaction of the City. The undersigned certifies all prices contained in this bid have been carefully checked and are submitted as correct and final. The Bidder by submitting this bid and signing below, acknowledges that he/she has received & read the entire Bid and Contract document and agrees to be bound by the terms therein, has received all Addenda, and agrees to the terms, conditions, and requirements of the bidder's bid proposal and all documents listed in TABLE A above and the enabling Ordinance and associated documentation that form the entire Contract upon approval by the City Council.

Official Name of Company (legal): \_\_\_\_\_

Original Signature of Person Authorized to Sign Bid/Contract / Date Signer's Name: \_\_\_\_\_ (Please Print or Type)

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# CITY OF SAN ANTONIO

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Project Name: Creighton Street Improvements  
ID NO.: 40-00252-05-01

Date Issued: July 9, 2012  
Page 1 of 2

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## 020 BID FORM

### I. BASE BID

Amount of Street/Roadway Construction Base Bid (Insert Amount in Words and Numbers):

\_\_\_\_\_ \$ \_\_\_\_\_

Amount of SAWS Water Base Bid (Insert Amount in Words and Numbers):

\_\_\_\_\_ \$ \_\_\_\_\_

Amount of SAWS Sewer Base Bid (Insert Amount in Words and Numbers):

\_\_\_\_\_ \$ \_\_\_\_\_

Amount of CPS Base Bid (Insert Amount in Words and Numbers):

\_\_\_\_\_ \$ \_\_\_\_\_

**Total Amount of Base Bid (Insert Amount in Words and Numbers):**

\_\_\_\_\_ \$ \_\_\_\_\_

### II. ALTERNATES

Amount of each Alternates (if applicable) insert in Numbers:

Additive Alternate #1 - Item 503.2 - Portland Cement Concrete Driveways - Alleys

**Total Amount of Bid for Additive Alternate #1 (Insert Amount in Words and Numbers):**

\_\_\_\_\_ \$ \_\_\_\_\_

Additive Alternate #2 - Item 503.4 - Asphalt Concrete Driveways - Alleys

**Total Amount of Bid for Additive Alternate #2 (Insert Amount in Words and Numbers):**

\_\_\_\_\_ \$ \_\_\_\_\_

### III. UNIT PRICES

Bidders shall submit unit pricing on the 025 Unit Pricing form, and it shall be attached immediately following this sheet.

### IV. ALLOWANCES (if applicable)

\_\_\_\_\_  
Official Name of Company (legal)

\_\_\_\_\_  
Telephone No.

\_\_\_\_\_  
Address

\_\_\_\_\_  
Fax No.

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
E-mail Address

Name of the proposed **Project Manager:** \_\_\_\_\_

Name of the proposed **Site Superintendent:** \_\_\_\_\_

CITY OF SAN ANTONIO  
025 UNIT PRICING FORM

PROJECT NAME: Creighton Street Improvements  
PROJECT NO. 40-00252

ALT. NO.	ITEM NO.	DESC. CODE	S.P. NO	BID ITEM DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT BID PRICE	AMOUNT	ITEM SEQUENCE NO.
ROADWAY IMPROVEMENTS									
	100.1			MOBILIZATION	LS	1			
	100.2			INSURANCE & BOND	LS	1			
	101.1			PREPARING RIGHT OF WAY	LS	1			
	103.1			REMOVE CONCRETE CURB (<700 LF)	LF	583			
	103.3			REMOVE CONCRETE SIDEWALKS (3')	SF	5823			
	104.1			STREET EXCAVATION (1,000 <X<10,000 CY)	CY	2494			
	108.1			LIME TREATED SUBGRADE (6" COMPACTED DEPTH)	SY	8970			
	108.2			LIME	TON	112			
	202.1			PRIME COAT	GAL	1794			
	203.1			TACK COAT	GAL	897			
	205.2			HOT MIX ASPHALTIC PAVEMENT, TYPE B (6" COMP. DEPTH)	SY	8970			
	205.4			HOT MIX ASPHALTIC PAVEMENT, TYPE D (2" COMP. DEPTH)	SY	7548			
	307.1			CONCRETE STRUCTURE (RETAINING WALLS)	CY	1			
	500.4			CONCRETE CURB & GUTTER	LF	4861			
	502.1			CONCRETE SIDEWALKS (4')	SY	891			
	503.1			PORTLAND CEMENT CONCRETE DRIVEWAY - RESIDENTIAL	SY	273			
	503.2			PORTLAND CEMENT CONCRETE DRIVEWAY - COMMERCIAL	SY	258			
	506.1			CONCRETE RETAINING WALLS-COMB. TYPE (<20 C.Y.)	CY	5			
	507.1			CHAIN LINK WIRE FENCE (4')	LF	992			
	507.1			CHAIN LINK WIRE FENCE (6')	LF	140			
	507.4			GATES-PEDESTRIAN	EA	2			
	507.4			GATES-VEHICULAR	EA	13			
	515.1			TOP SOIL (6") (<500 CY)	CY	195			
	516.2			ST. AUGUSTINE SODDING	SY	1172			
	523.5			ADJUSTING WROUGHT IRON FENCE	EA	1			
	523.5			ADJUSTING WROUGHT IRON VEHICULAR GATE (MOTORIZED)	EA	1			
	530.1			BARRICADES, SIGNS & TRAFFIC HANDLING	LS	1			
	531.3			R1-1 STOP (HIGH DENSITY)	EA	14			
	531.46			W3-3 SIGNAL AHEAD (36"x36")(HIGH DENSITY) (BUMP AHEAD)	EA	2			
	531.47			W8-1 BUMP (30"x30")(HIGH DENSITY)	EA	2			
	531.54			W14-2 NO OUTLET (HIGH DENSITY)	EA	5			
	531.57			9 INCH STREET NAME, BLOCK NUMBERS (HIGH DENSITY)	EA	16			

CITY OF SAN ANTONIO  
025 UNIT PRICING FORM

PROJECT NAME: Creighton Street Improvements  
PROJECT NO. 40-00252

ALT. NO.	ITEM NO.	DESC. CODE	S.P. NO	BID ITEM DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT BID PRICE	AMOUNT	ITEM SEQUENCE NO.
	531.58			W14-1P DEAD END STREET MARKER	EA	5			
	531.6			R2-1 SPEED LIMIT (HIGH DENSITY)(24"X30)	EA	2			
	540.8			SANDBAGS FOR EROSION CONTROL FENCE (6")	EA	20			
	540.9			TEMPORARY SEDIMENT-CONTROL FENCE	LF	1800			
	618.3			CONDUIT (4 INCH PVC/ SCHEDULE 40)	LF	98			
	801.3			LEVEL II B PROTECTIVE FENCING TREE TRUNK PROTECTION	LF	126			
	802.1			LEVEL I PRUNING, SOIL AMENDING AND FERTILIZATION	EA	14			
	2000			REMOVE AND RELOCATE BRICK COLUMNS	EA	3			
	2100.1			REPLACE WOOD FENCE (6')	LF	396			
	2100.1			REPLACE WOOD FENCE VEHICULAR GATE	LF	48			
	2100.2			REPLACE WOOD PICKETT FENCE (4')	LF	35			
	2200			REMOVE AND RELOCATE SPEED BUMP	EA	2			
				ALTERNATIVE #1					
	503.2			PORTLAND CEMENT CONCRETE DRIVEWAY - ALLEYS	SY	140			
				ALTERNATIVE #2					
	503.4			ASPHALT CONCRETE DRIVEWAYS - ALLEYS	SY	140			

Roadway Total Bid Amount:

CITY OF SAN ANTONIO  
025 UNIT PRICING FORM

PROJECT NAME: Creighton Street Improvements  
PROJECT NO. 40-00252

ALT. NO.	ITEM NO.	DESC. CODE	S.P. NO	BID ITEM DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT BID PRICE	AMOUNT	ITEM SEQUENCE NO.
SAN ANTONIO WATER SYSTEM - WATERLINE IMPROVEMENTS									
	100			MOBILIZATION	LS	1			
	101			PREPARATION OF RIGHT OF WAY	LS	1			
	550			TRENCH EXCAVATION SAFETY PROTECTION	LF	2704			
	818			4" PVC WATERLINE	LF	5			
	818			6" PVC WATERLINE	LF	56			
	818			8" PVC WATERLINE	LF	2510			
	819			12" PVC WATERLINE	LF	7			
	822			LONG YARD PIPING (1")	LF	50			
	824			NEW 3/4" LONG UNMETERED SERVICE	EA	1			
	*824			*NEW 3/4" SHORT UNMETERED SERVICE	EA	1			
	824			RELAY 3/4" SHORT SERVICE	EA	3			
	824			RELOCATE LONG 3/4" SERVICE	EA	1			
	824.5			CUSTOMER SHUT-OFF VALVE	EA	4			
	828			8" GATE VALVE	EA	35			
	833			METER BOX	EA	4			
	833			EXSITING METER AND NEW METER BOX RELOCATION	EA	4			
	834.1			FIRE HYDRANT	EA	4			
	836			PIPE FITTINGS, ALL SIZES & TYPES	TON	8.4			
	840			4" WATER TIE IN	EA	1			
	840			6" WATER TIE IN	EA	8			
	840			8" WATER TIE IN	EA	1			
	840			12" WATER TIE IN	EA	1			
	841			HYDROSTATIC TESTING	EA	3			
	844			2" BLOW OFF, TEMPORARY	EA	22			
	856.2			8" CARRIER PIPE (C-900)	LF	126			
	856.3			24" STEEL CASING (OPEN CUT)	LF	126			
	858			CONCRETE ENCASEMENT	CY	11			
	1840			1.5" MINOR WATER TIE IN	EA	1			
	1840			2" MINOR WATER TIE IN	EA	10			
	*1850			*2" TEMPORARY WATERLINE	LF	50			
	*3000.7			*REMOVAL, TRANSPORTATION AND DISPOSAL OF AC PIPE	LF	39			

SAWS Waterline Total Bid Amount:

CITY OF SAN ANTONIO  
025 UNIT PRICING FORM

PROJECT NAME: Creighton Street Improvements  
PROJECT NO. 40-00252

ALT. NO.	ITEM NO.	DESC. CODE	S.P. NO	BID ITEM DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT BID PRICE	AMOUNT	ITEM SEQUENCE NO.
SAN ANTONIO WATER SYSTEM - SANITARY SEWER IMPROVEMENTS									
	100			MOBILIZATION	LS	1			
	101			PREPARATION OF RIGHT OF WAY	LS	1			
	550			TRENCH EXCAVATION SAFETY PROTECTION	LF	2,578			
	848			8" PVC SANITARY SEWER LINE (6'-10')	LF	210			
	848			10" PVC SANITARY SEWER LINE (6'-10')	LF	2,368			
	852.1			SANITARY SEWER MANHOLE (0'-6')	EA	9			
	852.3			EXTRA DEPTH MANHOLES (>6')	VF	24			
	854			SANITARY SEWER LATERALS	LF	143			
	854.1			ONE-WAY SANITARY SEWER CLEAN-OUT	EA	8			
	858			CONCRETE ENCASEMENT, CRADLES, SADDLES AND COLLARS	CY	3			
	860			VERTICAL STACKS	VF	8			
	864			BYPASS PUMPING	LS	1			
	866			SEWER MAIN TELEVISION INSPECTION (8"-15")	LF	2,578			

SAWS Sanitary Sewer Total Bid Amount:

CITY OF SAN ANTONIO  
025 UNIT PRICING FORM

PROJECT NAME: Creighton Street Improvements  
PROJECT NO. 40-00252

CONSTRUCTION OF NATURAL GAS DISTRIBUTION FACILITIES

- NOTE A: FOR EACH OF THE ITEMS BELOW, THE CONTRACTOR'S WORK IS TO INCLUDE: TRENCHING, JOINING, TESTING, COATING STEEL, BUILDING AND PAINTING RISERS AND METER SET-UPS, CONNECTING NEW PIPE TO EXISTING PIPE AND INSTALLING ALL NECESSARY FITTINGS FOR TIE-INS SUCH AS, STOPPER FITTINGS AND 3-WAY STOPPER TEES, VALVE INSULATING JOINTS, INSTALLING ALL NECESSARY CATHODIC PROTECTION DEVICES SUCH AS CPTLB'S AND ANODES, SAND PADDING, BACKFILLING AND COMPACTING TO CONSISTENCY OF ORIGINAL SOIL, REPLACING PAVING, CURBS, AND SIDEWALKS REMOVED OR DAMAGED DURING CONSTRUCTION, AND CLEANUP AS MAY BE NECESSARY IN EACH INSTANCE.
- NOTE B: TRENCHING IS CONSIDERED TO BE THE NORMAL METHOD OF SERVICE INSTALLATION AND IS REQUIRED ON ALL SERVICE ADJUSTMENTS. A GAS SERVICE CAN BE RERUN BY INSERTION, WHEN THE OLD SERVICE IS PULLED FROM THE RISER TO ONE FOOT INSIDE THE PROPERTY LINE, ONLY AT THE DISCRETION OF THE CPS ENERGY INSPECTOR.
- NOTE C: BID QUANTITIES SHOWN ARE ESTIMATES BY CPS ENERGY. PER FOOT PRICES SHALL BE APPLIED TO THE ACTUAL DISTANCE MEASURED ALONG THE TOP OF THE TRENCH OR THE ACTUAL LENGTH OF THE BORE, AS APPLICABLE.
- NOTE D: UNIT PRICES SHALL INCLUDE INSURANCE COSTS. CPS ENERGY'S INSURANCE REQUIREMENTS ARE SPECIFIED IN EXHIBIT GAS-6.
- NOTE E: THE COST TO ABANDON THE EXISTING MAIN(S) IS NOT AN ADDITIONAL ITEM AND IS TO BE INCLUDED IN THE UNIT PRICE(S) FOR THIS ITEM.

ALT. NO.	ITEM NO.	DESC. CODE	S.P. NO	BID ITEM DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT BID PRICE	AMOUNT	ITEM SEQUENCE NO.
CITY PUBLIC SERVICE (CPS)									
	1			INSTALL GAS MAIN OR CASING (DISTANCE AS MEASURED ALONG THE TOP OF TRENCH)					
				2" PLASTIC PIPE AND TRACER WIRE	FT	572			
				4" PLASTIC PIPE AND TRACER WIRE	FT	57			
				6" PLASTIC PIPE AND TRACER WIRE	FT	72			
				4" STEEL PIPE	FT	15			
				16" STEEL PIPE	FT	1675			
	2			RERUN AND LOWER GAS SERVICE OFF NEW MAIN (MAIN TO METER) SIZES 1" THROUGH 4"					
				SHORT SIDE	EA	2			
	3			RERUN AND LOWER GAS SERVICE OFF NEW MAIN (MAIN TO 1 FT. INSIDE PROP. LINE) SIZES 1" THROUGH 4"					
				LONG SIDE	EA	1			
	4			CUT BACK, PUMP TEST, AND TIE OVER EXISTING PLASTIC SERVICE TO NEW PLASTIC MAIN.	EA	2			
	5			UNCOVER AND ABANDON ACTIVE GAS MAINS ONLY WHEN MAIN IS NOT BEING REPLACED. (INCLUDES INSTALLATION OF STOPPLER FITTING(S) ON STEEL MAINS, PURGE AND PLUG ENDS.					
				12" STEEL	EA	1			
	6			CIVIC STREET RESTORATION ADJUSTMENT, WHEN REQUIRED. TO BE USED AS DIRECTED BY THE CPS REPRESENTATIVE					
				FLOWABLE FILL	CY	172			
				ASPHALT	SY	514			
				CONCRETE/FLATWORK	SF	4			

Natural Gas Total Bid Amount:

CITY OF SAN ANTONIO  
025 UNIT PRICING FORM

PROJECT NAME: Creighton Street Improvements  
PROJECT NO. 40-00252

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Total Bid Amount:

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\_\_\_\_\_ Acknowledged and agrees that the total bid amount shown will be read as its total bid and further agrees that the official total bid amount will be determined by multiplying the unit bid prices shown in this print-out by the respective estimated quantities shown in the proposal and then totaling all of the extended amounts. \_\_\_\_\_ agrees to the terms, conditions, and requirements of the bidder's bid proposal.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

**STANDARD INSTRUCTIONS TO RESPONDENTS****Read Carefully****1. STANDARD TERMS AND CONDITIONS**

## 1.1 By submitting this offer, the Respondent:

- (a) Affirms that they are duly authorized to execute the proposed contract, that this company, corporation, firm, partnership or individual has not prepared this Offer in collusion with any other Respondent, and that the contents of this offer as to prices, terms or conditions of said offer have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the public offer opening or official award of this contract, as applicable.
- (b) Represents that to the best of its knowledge it is not indebted to the City of San Antonio (City). Indebtedness to the City may be basis for non-award and/or cancellation of any award.
- (c) Agrees to comply with Ordinance number 71312 General Conditions for City Wage and Labor Standard Provisions
- (d) Agrees to comply with overtime regulations and pay workers the prevailing wage rate as listed in the wage decision noted on the Invitation for Bids form 010 or Invitation for Competitive Sealed Proposals form 011 specific to the solicitation. The Wage Decision is subject to change by addendum to the Invitation for Sealed Bids or Invitation for Competitive Sealed Proposals (hereinafter referred to as the "solicitation") or as a result of the City's inability to award a contract within 90 calendar days of submission deadline. The applicable Wage Decision is on the Department of Labor website (Search by Select DBA Wage Decision Number) <http://www.wdol.gov/dba.aspx#0>

## 1.2 Respondents are required to submit their offers upon the following expressed conditions:

- (a) Respondents shall thoroughly examine the drawings, specifications, schedule(s), instructions and all other contract documents.
- (b) Respondents shall make all investigations necessary to thoroughly inform themselves regarding the conditions at the Project site, the Specifications, the Plans and any Addenda to the Specifications and/or Plans issued. No plea of ignorance by the Respondent of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the Respondent to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of the City or the compensation to the vendor.
- (c) Respondents are advised that all City contracts are subject to all legal requirements provided for in the City Charter and/or applicable City Ordinances, state and federal statutes. Any offer, after being opened or awarded, becomes subject to the Open Information Act, V.T.C.A. Government Code Chapter 552, therefore vendors must clearly indicate any portion of the submitted offer that the vendor claims is not subject to public inspection under the Open Information Act.
- (d) No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall benefit financially, directly or indirectly, in the sale to the City

of any materials, supplies or services, except on behalf of the City as an officer or employee. This prohibition extends to the City Public Service Board, San Antonio Water System, and all City boards and commissions other than those which are purely advisory. In this instance a City employee is defined as any employee of the City who is required to file a financial involvement report pursuant to the City's ethics ordinance.

- 1.3 For federally funded projects, the Respondent certifies the following:
- (a) Certifies that he does not and will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not and will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained.
  - (b) Certifies (in accordance with the guidelines below) that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency OR where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this offer.

**GUIDELINES FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION -- LOWER TIER COVERED TRANSACTIONS**

By signing and submitting this offer, the prospective lower tier participant is providing the certification set out below.

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. The prospective lower tier participant shall provide immediate written notice to the person to which this offer is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this offer is submitted for assistance in obtaining a copy of those regulations.

4. The prospective lower tier participant agrees by submitting this offer that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

5. The prospective lower tier participant further agrees by submitting this offer that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the

method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

## **2. DISCREPANCIES AND INTERPRETATION**

- (a) Prospective Respondents shall notify Consultant and City in writing at least five (5) calendar days prior to scheduled Offer Opening date if discrepancies and ambiguities or omissions are found in the Project Plans and/or Specifications, or if further information or interpretation is desired.
- (b) Answers by Consultant and/or City will be given in writing to all prospective Respondents in Addendum form. All provisions and requirements of such addenda will supersede or modify affected portions of the Project Plans and/or Specifications. All addenda will be incorporated in and bound with the Contract Documents. No other explanation or interpretation will be considered official or binding upon the City.

## **3. PREPARATION OF OFFERS**

Offers will be prepared in accordance with the following:

- (a) All information required by the invitation for offers shall be furnished or the offer may be deemed non-responsive.
- (b) Respondents shall submit unit pricing either on the forms provided by the City or its Consultant or an original computer printout sheet bearing certification by and signature for the offering firm. The unit prices shown on acceptable printouts will be unit prices used to tabulate the offer and used in the contract if awarded by the City. As a minimum, computer printouts must contain the information and in the arrangement shown on the "Example of Offer Prices Submitted by Computer Printout" form in the proposal. Proposals with unit prices by computer printout will be considered as nonresponsive if:
  - 1. The proposal does not bear the certification verbatim, as shown on the example in the proposal.
  - 2. The computer printout does not show the name of the firm submitting the proposal.
  - 3. The computer printout omits or alters required offer items or includes items not shown in the proposal.

If the proposal submitted by the Respondent contains both the form furnished by the City, completed according to the instructions, and also a computer printout, completed according to

the instructions, only one will be considered. In this situation the offer prices shown on the computer printout will be used to determine the offer.

- (c) Respondents shall submit a unit price for each Work element pay item for which a offer is requested, except in the case of an alternate. In such a case, the procedure is as follows:
  - 1. Additive Alternate: In the case of Additive Alternates, unit prices must be submitted for the base offer and the items in all proposed additive alternates.
  - 2. Substitute Alternate: In the case of a Substitute Alternate (these alternates appear in sets of two or more related alternates), unit prices must be submitted for all the items in the base offer and for all the items in one of the related substitute alternates in each set.
- (d) Where there is an error in extension of price, the unit price shall govern.
- (e) If a Respondent detects an error in quantities on the specifications or solicitation documents, unit price shall govern. Respondent shall notify the City of such error by indicating in the comments section of the bid/pricing form or beside the item on the City's proposal form or computer printout referenced in 3. (d) above. Respondent should not attempt to correct the error by inflating unit pricing.
- (f) In the event additional or extra blank spaces remain after completion of the various forms, Contractor shall enter the terms "none" or "not applicable" on any remaining blank spaces to indicate that the Contractor has considered City requests for information on every line presented. Any blank unit prices will be tabulated and evaluated as "no cost" to the City.
- (g) The combined total offers for Mobilization and Preparing Right-of-Way, shall not exceed fifteen percent (15%) of the total project offer. The 15% allowed for Mobilization and Preparing Right-of-Way will be calculated based upon the total of all offer components A offer containing a combined total for Mobilization and Preparing Right-of-Way in excess of fifteen (15%) percent may be considered unbalanced and may be rejected.
- (h) The unit price shall be inserted on the Offer Proposal sheet in words (not figures) in the "DESCRIPTION AND UNIT PRICE OFFER" column. Extensions, which are the unit prices multiplied by the approximate quantities for each item, shall be inserted in figures in the "EXTENSION" column. Offers shall be submitted only on the City's proposal form or approved computer printout sheets. Offers not so submitted will be considered nonresponsive.
- (i) Separated Contract: This project will be offer as a "separated contract" in accordance with a recent amendment to section 151.311 of the tax code in order for the contractor to claim a tax exemption on the contract price of materials.

#### 4. SUBMISSION OF OFFERS

- (a) Offers shall be enclosed in sealed envelopes addressed to the **City Clerk, City of San Antonio 100 Military Plaza, San Antonio, Texas**, as set forth in the Invitation for Bid (IFB) or Invitation for Competitive Sealed Proposals (IFCSP). The name and address of Respondent, the date and hour of the offer opening and the title of the offer solicitation shall be placed on the outside of the envelope.

- (b) Information and Solicitation documents are obtainable from the Consultant as set forth in the published IFB/IFCSP. Solicitation documents are also on file in the Office of Plans and Records, 9th Floor, Municipal Plaza Building, 114 W. Commerce.
- (c) Offers must be submitted on the forms furnished. Offers, however, may be modified provided such modifications are sealed and received by the City Clerk prior to the submission deadline.
- (d) City of San Antonio shall not be responsible for lost or misdirected offers or modifications.
- (e) By submittal of this offer, Respondent certifies to the best of his/her knowledge that all information is true and correct.

## **5. REJECTION OF OFFERS**

- (a) The City may reject an offer if:
  - 1. The Respondent misstates or conceals any material fact in the offer; or
  - 2. The offer does not strictly conform to law or the requirements of the offer;
  - 3. The offer is conditional.
  - 4. The Respondent is deemed by the City to be unqualified.
  - 5. The Respondent has exceeded its bonding capacity.
  - 6. The offer is unbalanced.
  - 7. Good Faith Effort Plan or List of Subcontractors is not submitted with bid, if applicable.
- (b) In the event that a Respondent is or subsequently becomes delinquent in the payment of his, her or its City taxes, including state and local sales taxes, such fact shall constitute grounds for rejection of the offer or if awarded the offer, for cancellation of the contract. The City reserves the right to deduct any delinquent taxes from payments that the City may owe to the delinquent Respondent as a result of such contract.
- (c) The City may, however, reject all offers whenever it is deemed in the best interest of the City to do so, and may reject any part of an offer unless the offer has been qualified as provided in 5 (a) 3 above.
- (d) The City at its sole discretion may also waive any minor informalities or irregularities in any offer, to include failure to submit sufficient offer copies, failure to submit literature or similar attachments, or business affiliation information.

## **6. WITHDRAWAL OF OFFERS**

Offers may not be withdrawn after the solicitation deadline, unless approved by the City.

## **7. LATE OFFERS OR MODIFICATIONS**

- (a) Offers and modifications received after the solicitation deadline will not be considered.

(b) Proposal amounts may not be amended or modified in any manner after the Solicitation Deadline in the published IFB/IFCSP, except as hereinafter provided.

(c) The City will perform a cursory review to determine if the Offers are complete as to required contents, in proper form, and are properly signed. An offer that is obviously defective will not be read aloud at bid opening, nor will the offer prices included therein be publicly revealed. If a minor clerical error or omission is discovered and classified by the City as a technicality which the City of San Antonio has reserved the right to waive, or applicable law allows the City a right to waive, the Respondent's representative shall have the opportunity to make the appropriate correction.

## **8. PROPOSAL GUARANTY:**

(a) Each Offer must be accompanied by a certified or cashier's check (if the offer is less than \$25,000) or an original Bid Bond issued by a corporate surety company licensed to conduct business in the State of Texas, in the amount of not less than five percent (5%) of the greatest total amount of the Offer Proposal, payable without recourse to the order of the City of San Antonio, Texas. These forms of security will serve as a guarantee that, if awarded the Contract, the Respondent will promptly enter into Agreement with the City as required by the Contract Documents and execute Performance and Payment Bonds on the City forms provided.

(b) Termination of Offer: No Offer shall be withdrawn or terminated by Respondent without consent of the City for a period of ninety (90) calendar days after the Solicitation Deadline.

(c) Should the successful Respondent fail to execute the Contract and Bonds and provide the required insurance within twenty (20) calendar days after the date of transmittal of the Contract Documents by City to Contractor, said Proposal Guaranty shall become the property of the City, not as a penalty, but as liquidated delay and administrative damages suffered by the City as a result of the successful Respondent failing to enter into the awarded City Contract.

(d) Proposal guarantees from the first, second and third ranked Respondents (for IFCSP) or first, second and third lowest Bidders (for IFB) will be retained until after the Contract Agreement and Bonds have been executed. Proposal Guarantees in the form of any certified or cashier's check of all except the three above-referenced Respondents will be returned by mail to unsuccessful Respondents upon certification of the three above-referenced Respondents, unless there is a justifiable reason for City to hold them for the full ninety (90) calendar day period.

## **9. QUALIFICATIONS OF RESPONDENT:**

(a) The City or its agents may make such investigations as it deems necessary to determine the ability and responsibility of the Respondent to perform the Work. Respondent shall furnish to the City reasonable information and data for this purpose as the City may reasonably request. The City reserves the right to reject any offer if the evidence submitted by, or investigation of, such Respondent fails to satisfy the City that such Respondent is responsible to carry out the obligations of the Contract and to complete the Work contemplated therein.

(b) The City has implemented a Contractor performance evaluation system. The evaluation will cover: accomplishment of the Project with adequate manpower, ability to meet schedule, adequacy of materials and equipment; Citizen complaint response; adjacent-to-Project, property Owner relations; and attendance at public Project meetings. The Contractor's evaluation history may also be used by the City Staff as a basis for recommendations of award to the City Council.

## **10. AWARD OF CONTRACT**

- (a) For Invitation for Bids, the contract will be awarded to the lowest responsible Respondent whose offer, conforming to the Invitation for Bids, is most advantageous to the City.
- (b) For Invitation for Competitive Sealed Proposals the contract will be awarded to the Respondent whose offer, conforming to the Invitation for Competitive Sealed Proposals, is most advantageous to the City.
- (c) **A written award of acceptance (manifested by a City Ordinance) and appropriation (evidenced by Purchase Order) mailed or otherwise furnished to the successful Respondent results in a binding contract without further action by either party.**
- (d) Breaking of tie offers shall be in accordance with V.T.C.A. Local Government Code § 271.901.
- (e) The City reserves the right to accept any items or groups of items on this offer, unless the Respondent qualifies his/her offer by specific limitations. Re Par.5 (a) (3) above.
- (f) Although the information furnished to Respondents specified the approximate quantities needed, based on the best available information where a contract is let on a unit price basis, payment shall be based on the actual quantities supplied. The City reserves the right to delete items, prior to the awarding of the contract, and purchase said items by other means; or after the awarding of the contract, to increase or decrease the quantities offer in accordance with § 252.048 of the Texas Local Government Code. No changes shall be made without written notification of the City.
- (g) Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a completed conflict of interest questionnaire with the City Clerk not later than the 7<sup>th</sup> business day after the date that the person: (1) begins contract discussions or negotiations with the City; or (2) submits to the City an application, response to a request for proposals, bids, offers, correspondence, or another writing related to a potential agreement with the City. The conflict of interest questionnaire form is available from the Texas Ethics Commission at [www.ethics.state.tx.us](http://www.ethics.state.tx.us). Completed conflict of interest questionnaires may be mailed to Office of the City Clerk, P.O. Box 839966, San Antonio, TX 78283-3966 or delivered by hand to the Office of the City Clerk, City Hall, 2<sup>nd</sup> floor, 100 Military Plaza, San Antonio, TX 78205. Please consult your own legal advisor if you have questions regarding the statute or form.

## 11. SITE INVESTIGATION

- (a) The submittal of an Offer by Respondent shall constitute an admission that the Respondent has fully examined the location of the proposed Work and the requirements of the Work. The Respondent shall be familiar with all of the Contract Documents and other City instructions including Respondent's ability to submit inquiries to City and Design Consultant before submitting an Offer so that no Contractor misunderstanding shall exist regarding the nature and character of the Work to be performed. No allowance will be made by City for any Respondent claim that the Offer Proposal is based upon incomplete information as to the nature and character of the site or the Work involved.
- (b) After investigating the Project site and comparing the Plans and Specifications and other Contract Documents with the existing conditions, the prospective Respondent should immediately notify the Consultant of any conditions for which the requirements of labor and materials are not clear, and pose any question regarding the quantity and extent of the Work

involved. Respondent inquiry notifications to the City and/or Consultant must be made in writing at least five (5) calendar days prior to the scheduled solicitation deadline.

- (c) It is understood and acknowledged by Respondent that full and complete allowance for conditions under which the Contractor will be required to perform construction, or that will in any manner affect Work under this Contract, are included in the Respondent's Proposal and reflected in the proposed Contract sum. If a soils investigation was conducted as a potential aid to the Consultant in preparation of the Contract Plans and Specifications, this information is available to prospective Respondents for review at the Project Consultant's office and is non-refundable. Copies may be purchased from the Consultant. THIS INFORMATION IS AVAILABLE TO PROSPECTIVE RESPONDENTS WITHOUT EXPRESS OR IMPLIED REPRESENTATION, ASSURANCE, WARRANTY OR GUARANTEE BY CITY OR CONSULTANT THAT IT IS COMPLETE OR CORRECT OR THAT IT REPRESENTS A TRUE, OR APPROXIMATELY TRUE, PICTURE OF THE SUB-SURFACE CONDITIONS TO BE ENCOUNTERED ACROSS THE PROPOSED WORK SITE. THIS INFORMATION IS SPECIFICALLY NOT PART OF THE CONTRACT DOCUMENTS. Before submitting its Offer, each Respondent may, at Respondent's own expense, make reasonable Work site investigations and tests as the Respondent may deem necessary to formulate its Offer for performance of the Work in accordance with the Contract Documents. Access for such investigations and tests must be reasonably coordinated with the City.

## **12. RESTRICTION ON COMMUNICATION**

Respondents are prohibited from communicating with City staff and City officials regarding this solicitation with the following exceptions:

- (a) Questions or other communication at the pre-submittal conference are allowed.
- (b) Written questions and comments concerning this solicitation shall be sent to the consultant (see address for purchasing plans and specifications on the IFB or IFCSF) and a copy to the City's Plans and Records at 114 W. Commerce St. 9<sup>th</sup> Floor Municipal Plaza Building, San Antonio, TX 78205. These questions must be received no later than one week prior to submittal date.

Answers by Consultant and/or City will be given in writing to all prospective Respondents in Addendum form. All provisions and requirements of such addenda will supersede or modify affected portions of the Project Plans and/or Specifications. All addenda will be incorporated in and bound with the Contract Documents. No other explanation or interpretation will be considered official or binding upon the City. No other explanation or interpretation will be considered official or binding upon the City. All addenda will be posted on the City's website with this solicitation. It is respondent's responsibility to obtain addenda.

Violation of this provision by Respondent or his agent may lead to disqualification of their offer from consideration.

***Creighton Street Improvements Project***  
**050.01**

**A. Solicitation Response and Contract Requirements and Commitment**

Respondent understands and agrees that the following provisions shall be requirements of this solicitation and the resulting contract, if awarded, and by submitting its Response, Respondent commits to comply with these requirements. In the absence of a waiver granted by the SBO, failure of a Prime Contractor to commit in its response, through a fully-documented and signed SBO-promulgated Subcontractor/Supplier Utilization Plan form, to satisfying the SBE subcontracting goal shall render its response NON-RESPONSIVE.

**Waiver Request** - A Respondent may request, for good cause, a full or partial Waiver of a **specified subcontracting goal** included in this solicitation by submitting the *Respondent Subcontracting Waiver Request* form (available at <http://www.sanantonio.gov/edd/SmallBusiness>) with its solicitation response. The Respondent's Waiver request must fully document subcontractor unavailability despite the Respondent's good faith efforts to comply with the goal. Such documentation shall include all good faith efforts made by Respondent including, but not limited to, which subcontractors were contacted (with phone numbers, e-mail addresses and mailing addresses, as applicable) and the method of contact. **Late Waiver requests will not be considered.**

**Exception Request** - A Respondent may, for good cause, request an Exception to the application of the SBEDA Program if the Respondent submits the *Exception to SBEDA Program Requirements Request* form (available at <http://www.sanantonio.gov/edd/SmallBusiness>) with its solicitation response. The Respondent's Exception request must fully document why: (1) the value of the contract is below the \$50,000 threshold for application of the SBEDA Program; or (2) no commercially-useful subcontracting opportunities exist within the contract scope of work; or (3) the type of contract is outside of the scope of the SBEDA Ordinance. **Late Exception Requests will not be considered.**

**B. SBEDA Program**

The CITY has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2010-06-17-0531 and as amended, also referred to as "SBEDA" or "the SBEDA Program"), which is posted on the City's Economic Development (EDD) website page and is also available in hard copy form upon request to the CITY. The SBEDA Ordinance Compliance Provisions contained in this section of the Agreement are governed by the terms of this Ordinance, as well as by the terms of the SBEDA Ordinance Policy & Procedure Manual established by the CITY pursuant to this Ordinance, and any subsequent amendments to this referenced SBEDA Ordinance and SBEDA Policy & Procedure Manual that are effective as of the date of the execution of this Agreement. Unless defined in a contrary manner herein, terms used in this section of the Agreement shall be subject to the same expanded definitions and meanings as given those terms in the SBEDA Ordinance and as further interpreted in the SBEDA Policy & Procedure Manual.

### C. Definitions

**Affirmative Procurement Initiatives (API)** – Refers to various Small Business Enterprise, Minority Business Enterprise, and/or Women Business Enterprise (“S/M/WBE”) Program tools and Solicitation Incentives that are used to encourage greater Prime and subcontract participation by S/M/WBE firms, including bonding assistance, evaluation preferences, subcontracting goals and joint venture incentives. (For full descriptions of these and other S/M/WBE program tools, see Section III. D. of Attachment A to the SBEDA Ordinance.)

**Centralized Vendor Registration System (CVR)** – a mandatory electronic system wherein the City requires all prospective Respondents and Subcontractors that are ready, willing and able to sell goods or services to the City to register. The CVR system assigns a unique identifier to each registrant that is then required for the purpose of submitting solicitation responses and invoices, and for receiving payments from the City. The CVR-assigned identifiers are also used by the Goal Setting Committee for measuring relative availability and tracking utilization of SBE and M/WBE firms by Industry or commodity codes, and for establishing Annual Aspirational Goals and Contract-by-Contract Subcontracting Goals.

**Certification or “Certified”** – the process by which the Small Business Office (SBO) staff determines a firm to be a bona-fide small, minority-, women-owned, or emerging small business enterprise. Emerging Small Business Enterprises (ESBEs) are automatically eligible for Certification as SBEs. Any firm may apply for multiple Certifications that cover each and every status category (e.g., SBE, ESBE, MBE, or WBE) for which it is able to satisfy eligibility standards. The SBO staff may contract these services to a regional Certification agency or other entity. For purposes of Certification, the City accepts any firm that is certified by local government entities and other organizations identified herein that have adopted Certification standards and procedures similar to those followed by the SBO, provided the prospective firm satisfies the eligibility requirements set forth in this Ordinance in Section III.E.6 of Attachment A.

**Commercially Useful Function** – an S/M/WBE firm performs a Commercially Useful Function when it is responsible for execution of a distinct element of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the S/M/WBE firm must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an S/M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/M/WBE firm is to be paid under the contract is commensurate with the work it is actually performing and the S/M/WBE credit claimed for its performance of the work, and other relevant factors. Specifically, an S/M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of meaningful and useful S/M/WBE participation, when in similar transactions in which S/M/WBE firms do not participate, there is no such role performed. The use of S/M/WBE firms by CONTRACTOR to perform such “pass-through” or “conduit”

functions that are not commercially useful shall be viewed by the CITY as fraudulent if CONTRACTOR attempts to obtain credit for such S/M/WBE participation towards the satisfaction of S/M/WBE participation goals or other API participation requirements. As such, under such circumstances where a commercially useful function is not actually performed by the S/M/WBE firm, the CONTRACTOR shall not be given credit for the participation of its S/M/WBE subcontractor or joint venture partner towards attainment of S/M/WBE utilization goals, and the CONTRACTOR and S/M/WBE firm may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

**Good Faith Efforts** – documentation of the CONTRACTOR’s or Respondent’s intent to comply with S/M/WBE Program Goals and procedures including, but not limited to, the following: (1) documentation within a solicitation response reflecting the Respondent’s commitment to comply with SBE or M/WBE Program Goals as established by the GSC for a particular contract; or (2) documentation of efforts made toward achieving the SBE or M/WBE Program Goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SBE or M/WBE subcontract opportunities on the City of San Antonio website; solicitations of bids/proposals/qualification statements from all qualified SBE or M/WBE firms listed in the Small Business Office’s directory of certified SBE or M/WBE firms; correspondence from qualified SBE or M/WBE firms documenting their unavailability to perform SBE or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for SBE or M/WBE firms; documentation of a Prime Contractor’s posting of a bond covering the work of SBE or M/WBE Subcontractors; documentation of efforts to assist SBE or M/WBE firms with obtaining financing, bonding or insurance required by the Respondent; and documentation of consultations with trade associations and consultants that represent the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE Subcontractors.) The appropriate form and content of CONTRACTOR’s Good Faith Efforts documentation shall be in accordance with the SBEDA Ordinance as interpreted in the SBEDA Policy & Procedure Manual.

**HUBZone Firm** – a business that has been certified by U.S. Small Business Administration for participation in the federal HUBZone Program, as established under the 1997 Small Business Reauthorization Act. To qualify as a HUBZone firm, a small business must meet the following criteria: (1) it must be owned and Controlled by U.S. citizens; (2) at least 35 percent of its employees must reside in a HUBZone; and (3) its Principal Place of Business must be located in a HUBZone within the San Antonio Metropolitan Statistical Area. [See 13 C.F.R. 126.200 (1999).]

**Independently Owned and Operated** – ownership of an SBE firm must be direct, independent and by Individuals only. Ownership of an M/WBE firm may be by Individuals and/or by other businesses provided the ownership interests in the M/WBE firm can satisfy the M/WBE eligibility requirements for ownership and Control as specified herein in Section III.E.6. The M/WBE firm must also be Independently Owned and Operated in the sense that it cannot be the subsidiary of another firm that does not itself (and in combination with the certified M/WBE firm) satisfy the eligibility requirements for M/WBE Certification.

**Individual** – an adult person that is of legal majority age.

**Industry Categories** – procurement groupings for the City of San Antonio inclusive of Construction, Architectural & Engineering (A&E), Professional Services, Other Services, and Goods & Supplies (i.e., manufacturing, wholesale and retail distribution of commodities). This term may sometimes be referred to as “business categories.”

**Minority/Women Business Enterprise (M/WBE)** – firm that is certified as a Small Business Enterprise and also as either a Minority Business Enterprise or as a Women Business Enterprise, and which is at least fifty-one percent (51%) owned, managed and Controlled by one or more Minority Group Members and/or women, and that is ready, willing and able to sell goods or services that are purchased by the City of San Antonio.

**M/WBE Directory** – a listing of minority- and women-owned businesses that have been certified for participation in the City’s M/WBE Program APIs.

**Minority Business Enterprise (MBE)** – any legal entity, except a joint venture, that is organized to engage in for-profit transactions, which is certified a Small Business Enterprise and also as being at least fifty-one percent (51%) owned, managed and controlled by one or more Minority Group Members, and that is ready, willing and able to sell goods or services that are purchased by the CITY. To qualify as an MBE, the enterprise shall meet the Significant Business Presence requirement as defined herein. Unless otherwise stated, the term “MBE” as used in this Ordinance is not inclusive of women-owned business enterprises (WBEs).

**Minority Group Members** – African-Americans, Hispanic Americans, Asian Americans and Native Americans legally residing in, or that are citizens of, the United States or its territories, as defined below:

African-Americans: Persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian, or West Indian.

Hispanic-Americans: Persons of Mexican, Puerto Rican, Cuban, Spanish or Central and South American origin.

Asian-Americans: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

Native Americans: Persons having no less than 1/16<sup>th</sup> percentage origin in any of the Native American Tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

**Originating Department** – the CITY department or authorized representative of the CITY which issues solicitations or for which a solicitation is issued.

**Payment** – dollars actually paid to CONTRACTORS and/or Subcontractors and vendors for CITY contracted goods and/or services.

**Prime Contractor** – the vendor or contractor to whom a purchase order or contract is issued by the City of San Antonio for purposes of providing goods or services for the City. For purposes of this Agreement, this term refers to the CONTRACTOR.

**Relevant Marketplace** – the geographic market area affecting the S/M/WBE Program as determined for purposes of collecting data for the MGT Studies, and for determining eligibility for participation under various programs established by the SBEDA Ordinance, is defined as the San Antonio Metropolitan Statistical Area (SAMSA), currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

**Respondent** – a vendor submitting a bid, statement of qualifications, or proposal in response to a solicitation issued by the City. For purposes of this Agreement, CONTRACTOR is the Respondent.

**Responsible** – a firm which is capable in all respects to fully perform the contract requirements and has the integrity and reliability which will assure good faith performance of contract specifications.

**Responsive** – a firm’s submittal (bid, response or proposal) conforms in all material respects to the solicitation (Invitation for Bid, Request for Qualifications, or Request for Proposal) and shall include compliance with S/M/WBE Program requirements.

**San Antonio Metropolitan Statistical Area (SAMSA)** – also known as the Relevant Marketplace, the geographic market area from which the CITY’s MGT Studies analyzed contract utilization and availability data for disparity (currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson).

**SBE Directory** - a listing of small businesses that have been certified for participation in the City's SBE Program APIs.

**SBE Subcontracting Program** – an API in which Prime Contractors or vendors are required to make Good Faith Efforts to subcontract a specified percentage of the value of prime contract dollars to certified SBE firms. Such subcontracting goals may be set and applied by the GSC on a contract-by-contract basis to those types of contracts that provide subcontract opportunities for performing Commercially Useful Functions wherein there have been ongoing disparities in the utilization of available SBE Subcontractors.

When specified by the GSC, the SBE Subcontracting Plan or Good Faith Efforts plan submitted by CONTRACTOR may also be required to reflect Good Faith Efforts that a Prime Contractor or vendor has taken (or commits to taking in the case of solicitations that do not include a detailed scope of work or those in which price cannot be considered a factor in evaluation), toward attainment of subcontracting goals for SBE firms.

**Significant Business Presence** – to qualify for this Program, a S/M/WBE must be headquartered or have a *significant business presence* for at least one year within the Relevant Marketplace, defined as: an established place of business in one or more of the eight counties that make up the San Antonio Metropolitan Statistical Area (SAMSA), from which 20% of its full-time, part-time and contract employees are regularly based, and from which a substantial role in the S/M/WBE’s

performance of a Commercially Useful Function is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence.

**Small Business Enterprise (SBE)** – a corporation, partnership, sole proprietorship or other legal entity for the purpose of making a profit, which is Independently Owned and Operated by Individuals legally residing in, or that are citizens of, the United States or its territories, and which meets the U.S. Small Business Administration (SBA) size standard for a small business in its particular industry(ies) and meets the Significant Business Presence requirements as defined herein.

**Small Business Office (SBO)** – the office within the Economic Development Department (EDD) of the CITY that is primarily responsible for general oversight and administration of the S/M/WBE Program.

**Small Business Office Manager** – the Assistant Director of the EDD of the CITY that is responsible for the management of the SBO and ultimately responsible for oversight, tracking, monitoring, administration, implementation and reporting of the S/M/WBE Program. The SBO Manager is also responsible for enforcement of contractor and vendor compliance with contract participation requirements, and ensuring that overall Program goals and objectives are met.

**Small Minority Women Business Enterprise Program (S/M/WBE Program)** – the combination of SBE Program and M/WBE Program features contained in the SBEDA Ordinance.

**Subcontractor** – any vendor or contractor that is providing goods or services to a Prime Contractor or CONTRACTOR in furtherance of the Prime Contractor's performance under a contract or purchase order with the City. A copy of each binding agreement between the CONTRACTOR and its subcontractors shall be submitted to the CITY prior to execution of this contract Agreement and any contract modification Agreement.

**Suspension** – the temporary stoppage of the SBE or M/WBE firm's beneficial participation in the CITY's S/M/WBE Program for a finite period of time due to cumulative contract payments the S/M/WBE firm received during a fiscal year that exceed a certain dollar threshold as set forth in Section III.E.7 of Attachment A to the SBEDA Ordinance, or the temporary stoppage of CONTRACTOR's and/or S/M/WBE firm's performance and payment under CITY contracts due to the CITY's imposition of Penalties and Sanctions set forth in Section III.E.13 of Attachment A to the SBEDA Ordinance.

**Subcontractor/Supplier Utilization Plan** – a binding part of this contract Agreement which states the CONTRACTOR's commitment for the use of Joint Venture Partners and / or Subcontractors/Suppliers in the performance of this contract Agreement, and states the name, scope of work, and dollar value of work to be performed by each of CONTRACTOR's Joint Venture partners and Subcontractors/Suppliers in the course of the performance of this contract, specifying the S/M/WBE Certification category for each Joint Venture partner and Subcontractor/Supplier, as approved by the SBO Manager. Additions, deletions or modifications of the Joint Venture partner or Subcontractor/Supplier names, scopes of work, of dollar values of

work to be performed requires an amendment to this Agreement to be approved by the IEDD Director or designee.

**Women Business Enterprises (WBEs)** - any legal entity, except a joint venture, that is organized to engage in for-profit transactions, that is certified for purposes of the SBEDA Ordinance as being a Small Business Enterprise and that is at least fifty-one percent (51%) owned, managed and Controlled by one or more non-minority women Individuals that are lawfully residing in, or are citizens of, the United States or its territories, that is ready, willing and able to sell goods or services that are purchased by the City and that meets the Significant Business Presence requirements as defined herein. Unless otherwise stated, the term “WBE” as used in this Agreement is not inclusive of MBEs.

#### D. SBEDA Program Compliance – General Provisions

As CONTRACTOR acknowledges that the terms of the CITY’s SBEDA Ordinance, as amended, together with all requirements, guidelines, and procedures set forth in the CITY’s SBEDA Policy & Procedure Manual are in furtherance of the CITY’s efforts at economic inclusion and, moreover, that such terms are part of CONTRACTOR’s scope of work as referenced in the CITY’s formal solicitation that formed the basis for contract award and subsequent execution of this Agreement, these SBEDA Ordinance requirements, guidelines and procedures are hereby incorporated by reference into this Agreement, and are considered by the Parties to this Agreement to be material terms. CONTRACTOR voluntarily agrees to fully comply with these SBEDA program terms as a condition for being awarded this contract by the CITY. Without limitation, CONTRACTOR further agrees to the following terms as part of its contract compliance responsibilities under the SBEDA Program:

1. CONTRACTOR shall cooperate fully with the Small Business Office and other CITY departments in their data collection and monitoring efforts regarding CONTRACTOR’s utilization and payment of Subcontractors, S/M/WBE firms, and HUBZone firms, as applicable, for their performance of Commercially Useful Functions on this contract including, but not limited to, the timely submission of completed forms and/or documentation promulgated by SBO, through the Originating Department, pursuant to the SBEDA Policy & Procedure Manual, timely entry of data into monitoring systems, and ensuring the timely compliance of its Subcontractors with this term;
2. CONTRACTOR shall cooperate fully with any CITY or SBO investigation (and shall also respond truthfully and promptly to any CITY or SBO inquiry) regarding possible non-compliance with SBEDA requirements on the part of CONTRACTOR or its Subcontractors or suppliers;
3. CONTRACTOR shall permit the SBO, upon reasonable notice, to undertake inspections as necessary including, but not limited to, contract-related correspondence, records, documents, payroll

records, daily logs, invoices, bills, cancelled checks, and work product, and to interview Subcontractors and workers to determine whether there has been a violation of the terms of this Agreement;

4. CONTRACTOR shall immediately notify the SBO, in writing on the Change to Utilization Plan form, through the Originating Department, of any proposed changes to CONTRACTOR's Subcontractor / Supplier Utilization Plan for this contract, with an explanation of the necessity for such proposed changes, including documentation of Good Faith Efforts made by CONTRACTOR to replace the Subcontractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Subcontractor / Supplier Utilization Plan including, but not limited to, proposed self-performance of work by CONTRACTOR of work previously designated for performance by Subcontractor or supplier, substitutions of new Subcontractors, terminations of previously designated Subcontractors, or reductions in the scope of work and value of work awarded to Subcontractors or suppliers, shall be subject to advanced written approval by the Originating Department and the SBO.
5. CONTRACTOR shall immediately notify the Originating Department and SBO of any transfer or assignment of its contract with the CITY, as well as any transfer or change in its ownership or business structure.
6. CONTRACTOR shall retain all records of its Subcontractor payments for this contract for a minimum of four years, or as required by state law, following the conclusion of this contract or, in the event of litigation concerning this contract, for a minimum of four years, or as required by state law, following the final determination of litigation, whichever is later.
7. In instances wherein the SBO determines that a Commercially Useful Function is not actually being performed by the applicable S/M/WBE or HUBZone firms listed in a CONTRACTOR's Subcontractor / Supplier Utilization Plan, the CONTRACTOR shall not be given credit for the participation of its S/M/WBE or HUBZone subcontractor(s) or joint venture partner(s) toward attainment of S/M/WBE or HUBZone firm utilization goals, and the CONTRACTOR and its listed S/M/WBE firms or HUBZone firms may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.
8. CONTRACTOR acknowledges that the CITY will not execute a contract or issue a Notice to Proceed for this project until the

CONTRACTOR and each of its Subcontractors for this project have registered and/or maintained active status in the CITY's Centralized Vendor Registration System, and CONTRACTOR has represented to CITY which primary commodity codes each registered Subcontractor will be performing under for this contract.

E. SBEDA Program Compliance – Affirmative Procurement Initiatives

The CITY has applied the following contract-specific Affirmative Procurement Initiative to this contract. CONTRACTOR hereby acknowledges and agrees that the selected API requirement shall also be extended to any change order or subsequent contract modification and, absent SBO's granting of a waiver, that its full compliance with the following API terms and conditions are material to its satisfactory performance under this Agreement:

**SBE Subcontracting Program.** In accordance with SBEDA Ordinance Section III. D. 1. (c), this contract is being awarded pursuant to the SBE Subcontracting Program. CONTRACTOR agrees to subcontract at least *the amount indicated on the 010 and Utilization Plan for this project* of its prime contract value to certified SBE firms headquartered or have a significant business presence within the San Antonio Metropolitan Statistical Area (SAMSA). The Subcontractor / Supplier Utilization Plan that CONTRACTOR submitted to CITY with its response for this contract (or, as appropriate, that it agrees to submit during the price proposal negotiation phase of this contract), and that contains the names of the certified SBE Subcontractors to be used by CONTRACTOR on this contract, the respective percentages of the total prime contract dollar value to be awarded and performed by each SBE Subcontractor, and documentation including a description of each SBE Subcontractor's scope of work and confirmation of each SBE Subcontractor's commitment to perform such scope of work for an agreed upon dollar amount is hereby attached and incorporated by reference into the material terms of this Agreement, and,

**M/WBE Subcontracting Program.** In accordance with SBEDA Ordinance Section III. D. 2. (b), this contract is being awarded pursuant to the M/WBE Subcontracting Program. CONTRACTOR agrees to subcontract at least *the amount indicated on the 010 and Utilization Plan for this project* of its prime contract value to certified SBE firms headquartered or have a significant business presence within the San Antonio Metropolitan Statistical Area (SAMSA). The Subcontractor / Supplier Utilization Plan that CONTRACTOR submitted to CITY with its response for this contract (or, as appropriate, that it agrees to submit during the price proposal negotiation phase of this contract), and that contains the names of the certified M/WBE Subcontractors to be used by CONTRACTOR on this contract, the respective percentages of the total prime contract dollar value to be awarded and performed by each M/WBE Subcontractor, and documentation including a description of each M/WBE Subcontractor's scope of work and confirmation of each M/WBE Subcontractor's commitment to perform such scope of work for an agreed upon dollar amount is hereby attached and incorporated by reference into the material terms of this Agreement.

In the absence of a waiver granted by the SBO, the failure of CONTRACTOR to attain this subcontracting goal for SBE or M/WBE firm participation in the performance of a Commercially Useful Function under the terms of its contract shall be a material breach and grounds for termination of the contract with the CITY, and may result in debarment from performing future CITY contracts, withholding of payment for retainage equal to the dollar amount of the underutilization below the agreed upon SBE or M/WBE subcontracting goals, and/or shall be subject to any other remedies available under the terms of this Agreement for violations of the SBEDA Ordinance, or under any other law.

#### F. Commercial Nondiscrimination Policy Compliance

As a condition of entering into this Agreement, the CONTRACTOR represents and warrants that it has complied with throughout the course of this solicitation and contract award process, and will continue to comply with, the CITY's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance. As part of such compliance, CONTRACTOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or, on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for Subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the CITY's Relevant Marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in CITY contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. CONTRACTOR's certification of its compliance with this Commercial Nondiscrimination Policy as submitted to the CITY pursuant to the solicitation for this contract is hereby incorporated into the material terms of this Agreement. CONTRACTOR shall incorporate this clause into each of its Subcontractor and supplier agreements entered into pursuant to CITY contracts.

#### G. Prompt Payment

Upon execution of this contract by CONTRACTOR, CONTRACTOR shall be required to submit to CITY accurate progress payment information with each invoice regarding each of its Subcontractors, including HUBZone Subcontractors, to ensure that the CONTRACTOR's reported subcontract participation is accurate. CONTRACTOR shall pay its Subcontractors in compliance with Chapter 2251, Texas Government Code (the "Prompt Payment Act") within ten days of receipt of payment from CITY. In the event of CONTRACTOR's noncompliance with these prompt payment provisions, no final retainage on the Prime Contract shall be released to CONTRACTOR, and no new CITY contracts shall be issued to the CONTRACTOR until the CITY's audit of previous subcontract payments is complete and payments are verified to be in accordance with the specifications of the contract.

#### H. Violations, Sanctions and Penalties

In addition to the above terms, CONTRACTOR acknowledges and agrees that it is a violation of the SBEDA Ordinance and a material breach of this Agreement to:

1. Fraudulently obtain, retain, or attempt to obtain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE, HUBZone firm, Emerging M/WBE, or ESBE for purposes of benefitting from the SBEDA Ordinance;
2. Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of the SBEDA Ordinance;
3. Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an S/M/WBE or HUBZone firm;
4. Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the SBEDA Ordinance; and
5. Make false statements to any entity that any other entity is, or is not, certified as an S/M/WBE for purposes of the SBEDA Ordinance.

Any person who violates the provisions of this section shall be subject to the provisions of Section III. E. 13. of the SBEDA Ordinance and any other penalties, sanctions and remedies available under law including, but not limited to:

1. Suspension of contract;
2. Withholding of funds;
3. Rescission of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance;
4. Refusal to accept a response or proposal; and
5. Disqualification of CONTRACTOR or other business firm from eligibility for providing goods or services to the City for a period not to exceed two years (upon City Council approval).

## SUPPLEMENTAL CONDITIONS

1. **When submitting a bid in person, visitors to City Hall must allow time for security measures.** Visitors to City Hall will be required to enter through the east side of the building. The public will pass through a metal detector and x-ray machine located in the lobby. All packages, purses and carried items will be scanned during regular business hours of 7 a.m. to 7 p.m. After the public proceeds through the metal detector, they will sign in and receive a visitor's badge. For those that might require the use of a ramp, entry is available on the south side of the building (Dolorosa side). Security will meet the visitor in the basement with a hand scanner.
2. **Scope of the Work** - The Contractor shall furnish all the materials and perform all the Work called for in the Contract Documents and more specifically described in the Plans and Specification for the Project entitled.
3. The Contractor shall begin Work at the job site within seven (7) calendar days after the date of the Owner's written Authorization to Proceed issued by the Owner's Representative.
4. **Liquidated Damages for Delay in Substantial Completion & Final Completion:** Contractor shall pay Owner the sum indicated on the table below for each and every calendar day of unexcused delay in achieving Substantial Completion/Final Completion beyond the Scheduled Completion/Final Completion Dates. Any sums due and payable hereunder by Contractor shall be payable, not as a penalty, but as Liquidated Damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing the Contract. Such Liquidated Damages shall apply regardless of whether Contractor has been terminated by Owner prior to Substantial Completion, so long as Contractor's actions or inactions contributed to the delay. Such Liquidated Damages shall be in addition to and not in preclusion of any recovery of actual damages resulting from other defects in Contractor's performance hereunder for matters other than delays in Substantial Completion/Final Completion. When Owner reasonably believes that Substantial Completion/Final Completion will be inexcusably delayed, Owner shall be entitled, but not required, to withhold from any amounts otherwise due to Contractor an amount then believed by Owner to be adequate to recover liquidated damages applicable to such delays. If and when Contractor overcomes the delay in achieving Substantial Completion/Final Completion, or any part thereof, for which Owner has withheld payment, Owner promptly shall release to Contractor those funds withheld but no longer applicable as Liquidated Damages.

**Liquidated Damages**

Contractual Milestone	Contractual Milestone Description and Requirements	From	To	Liquidated Damages
1	Substantial Completion	NTP	300 calendar days	\$700.00 per day
2	Final Completion	Substantial Completion	30 calendar days	\$350.00 per day

5. **The Contract Sum** - The Owner shall pay the Contractor for the proper performance of the Contract, subject to additions and deduction provided therein, the Contract sum is listed in the Purchase Order.
6. **Partial Payment** - Each month, the Owner shall make a progress payment as approved by the Owner's Representative in accordance with the General Conditions.
7. **Acceptance and Final Payment** - Final Payment shall be due on final Owner acceptance of the Project Work, provided the Contract has been completed by Contractor as provided in the General Conditions. Before issuance of the final payment, the Contractor shall submit an affidavit and reasonable additional supporting evidence if required, as satisfactory to the Director of Finance, City of San Antonio, that all labor payrolls, construction materials and supply bills, subcontractors, and other indebtedness connected with the Work have been paid in full, or that an outstanding debt is being disputed and that the corporate surety or its agent is processing the outstanding claim and is willing to defend and/or indemnify the City should the City make final Contract payment.
8. Contractor shall comply with Standard Specification 1000 in its invoicing.

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GENERAL CONDITIONS FOR  
CITY OF SAN ANTONIO CONSTRUCTION CONTRACTS

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**GENERAL CONDITIONS FOR  
CITY OF SAN ANTONIO CONSTRUCTION CONTRACTS**

**ARTICLE I. GENERAL PROVISIONS**

**1.1 CONTRACT DEFINITIONS**

Wherever used in the Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated, which are applicable to both the singular and plural thereof.

- 1.1.1 **“ALTERNATE”** means a variation in the Work in which Owner requires a price separate from the Base Bid. If an Alternate is accepted by Owner, the variation will become a part of the Contract through award of the Contract and the Base Bid will be adjusted to include the amount quoted as stated in the Notice of Award to Contractor. If an Alternate is accepted by Owner, and later deleted, Owner will be entitled to a credit in the full value of the Alternate as priced in Contractor’s Bid Proposal.
- 1.1.2 **“AMENDMENT”** is a written modification of the Contract prepared by Owner or Design Consultant and signed by Owner and Contractor, (and approved by the San Antonio City Council, if required) which authorizes an addition, deletion or revision in the Work (specifically the services) or an adjustment in the Contract Sum or the Contract Times and is issued on or after the Effective Date of the Agreement.
- 1.1.3 **“BASE BID”** is the price quoted for the Work before Alternates are considered.
- 1.1.4 **“CHANGE ORDER”** refer to **Article VII** herein for definition.
- 1.1.5 **“CITY COUNCIL”** means the duly elected members of the City Council of the City of San Antonio, Texas.
- 1.1.6 **“CONSTRUCTION OBSERVER/INSPECTOR** (hereafter referred to as “COI”) is the authorized representative of the Director of Capital Improvements Management Services (hereafter referred to as “CIMS”), or its designee department, assigned by Owner to observe and inspect any or all parts of the Project and the materials to be used therein. Also referred to herein as Resident Inspector.
- 1.1.7 **“CONTRACT”** means the Contract Documents which represent the entire and integrated agreement between Owner and Contractor and supersede all prior negotiations, representations or agreements, either written or oral. The terms and conditions of the Contract Documents may be changed only in writing by a Field Work Directive, Change Order or Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind between:

**(1) Design Consultant and Contractor;**

- (2) Owner and a Subcontractor or Sub-Subcontractor; or
- (3) any persons or entities other than Owner and Contractor.

1.1.8 “**CONTRACT DOCUMENTS**” means the Construction Contract between Owner and Contractor, which consists of, but are not limited to, the following: the Notice of Award, an enabling City of San Antonio Ordinance, the solicitation documents and other contract-related documents, which include:

- (1) General Conditions;
- (2) Vertical and/or Horizontal specific General Conditions and Special Conditions included by Special Provisions or addenda;
- (3) Drawings;
- (4) Specifications;
- (5) addenda issued prior to the close of the solicitation period; and
- (6) other documents listed in the Contract, including Field Work Directives, Change Orders and/or Amendments;
- (7) a written order for a minor change in the Work issued by Design Consultant and/or Owner, as described in **Article VII** herein.

The geotechnical and subsurface reports which Owner may have provided to Contractor specifically are excluded from the Contract Documents.

1.1.9 “**CONTRACT TIME**” means, unless otherwise provided, the period of time, including any authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. When the plural (“Contract Times”) is used, it refers to milestones designated in the Work Progress Schedule.

1.1.10 “**CONTRACTOR**” means the entity that has entered into a Contract with Owner to complete the Work. Contractor, as used herein, includes Construction Manager at Risk or other applicable entities performing work under a Contract with City.

1.1.11 “**DAY**” as used in the Contract Documents shall mean Calendar Day, unless otherwise specifically defined. A Calendar Day is a day of 24 hours, measured from midnight to the next midnight, unless otherwise specifically stipulated. A Working Day is a day of eleven hours, as measured from seven o’clock a.m. to six o’clock p.m. on weekdays, except legal holidays, or the hours during which Contractor has been authorized to work by Owner.

- 1.1.12 **“DEPARTMENT”** means the Department of Capital Improvements Management Services (hereafter referred to as “CIMS”), City of San Antonio, Texas or Director of the Department of Capital Improvements Management Services.
- 1.1.13 **“DESIGN CONSULTANT”** unless the context clearly indicates otherwise, means an Engineer, Architect or other Design Consultant in private practice, licensed to do work in Texas and retained for a specific project under a contractual agreement with Owner.
- 1.1.14 **“DRAWINGS”** (also referred to herein as **“Plans”**) are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of Work, generally including elevations, sections, details, schedules and diagrams.
- 1.1.15 **“FIELD WORK DIRECTIVES”** OR **“FORCE ACCOUNT”** is a written order signed by Owner directing a change in the Work prior to agreement an adjustment, if any, in the Contract Sum and/or Contract, as further defined in **Section 7.3** herein.
- 1.1.16 **“HAZARDOUS SUBSTANCE”** is defined to include the following:
- (a) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophyllite or actinolite, whether friable or non-friable;
  - (b) any polychlorinated biphenyls (“PCBs”), or PCB-containing materials, or fluids;
  - (c) radon;
  - (d) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste; any pollutant  
or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;
  - (e) any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;

(f) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.;

(g) the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and

(h) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

1.1.17 **“NOTICE TO PROCEED (HEREIN ALSO REFERRED TO AS “WORK PROJECT AUTHORIZATION” OR “NTP”)**” is a written notice given by Owner to Contractor establishing the date on which the Contract Time will commence to run and the date on which Contractor may begin performance of its contractual obligations.

1.1.18 **“OWNER”** is defined in **Article II** herein.

1.1.19 **“OWNER DESIGNATED REPRESENTATIVE (ODR)”** means the person(s) designated by Owner to act for Owner.

1.1.20 **“PROJECT”** means the total design and construction of Work performed under the Contract Documents and may be the whole or a part of the Project and which may include construction by Owner or by separate contractors. All references in these General Conditions to or concerning the Work or the Site of the Work will use the term “Project,” notwithstanding that the Work only may be a part of the Project.

1.1.21 **“PROJECT MANAGEMENT TEAM”** is composed of Owner, its representatives, Design Consultant and Program Manager (if any) for this Work.

1.1.22 **“SITE”** means the land(s) or area(s) (as indicated in the Contract Documents) furnished by Owner, upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

1.1.23 **“SPECIAL CONDITIONS”** are terms and conditions to an Agreement that supplement and are superior to these General Conditions and grant greater authority or impose greater restrictions upon Contractor, beyond those granted or imposed in these General Conditions. City’s Horizontal Special Conditions are attached hereto, made a part of these General Conditions and shall be used as applicable.

1.1.24 **“SPECIFICATIONS”** are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards,

workmanship for the Work, performance of related services and other technical requirements.

- 1.1.25 **“SUBSTANTIAL COMPLETION”** is the date certified by Owner and Design Consultant, in accordance with **Section 9.8** herein, when the Work, or a designated portion thereof, is sufficiently complete in accordance with the Contract Documents so as to be operational and fit for the intended use by Owner.
- 1.1.26 **“TEMPORARY BENCH MARKS (TBM)”** are temporary affixed marks which establish the exact elevation of a place; TBMs are used by surveyors in measuring site elevations or as a starting point for surveys.
- 1.1.27 **“THE 3D MODEL”** is the Building Information Model prepared by Design Consultant in the format designated, approved and acceptable to Owner with databases of materials, products and systems that can be used by Contractor to prepare schedules for cost estimating, product and materials placement schedules and evaluations of crash incidences. The 3D Model, if available, may be used as a tool, however all information taken from the Model is the responsibility of Contractor and not Owner or Design Consultant.
- 1.1.28 **“WORK”** means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by Contractor, or any Subcontractors, Sub-Subcontractors, material suppliers or any other entities for which Contractor is responsible, to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.
- 1.1.29 **OTHER DEFINITIONS.** As used in the Contract Documents, the following additional terms have the following meanings:
- 1.1.29.1 “provide” means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and all other expenses necessary to complete in place and ready for operation or use;
- 1.1.29.2 “shall” means the mandatory action of the party of which reference is being made;
- 1.1.29.3 “as required” means as prescribed in the Contract Documents; and
- 1.1.29.4 “as necessary” means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes and regulations.

## 1.2 PRELIMINARY MATTERS

- 1.2.1 Upon the San Antonio City Council's passing of an Ordinance authorizing the issuance of a contract, a Notice of Award Letter will be sent to Contractor by CIMS Contract Services, notifying Contractor of the award of a contract. In its Notice of Award Letter, Contractor will be informed of a date certain by which Contractor's bond(s) and evidence of insurance shall be delivered to CIMS Contract Services.
- 1.2.2 **DELIVERY OF CONTACT AND BONDS.** Not later than the Pre-Construction meeting and prior to the commencement of any Work on the Project, Contractor shall deliver a fully executed Contract to Owner, along with such bonds as Contractor may be required to furnish, including, but not limited to, a required payment bond in the form and amount specified in the Contract Documents and these General Conditions and a required performance bond in the form and amount specified in the Contract Documents and these General Conditions.
- 1.2.3 **DELIVERY OF EVIDENCE OF INSURANCE.** Not later than the Pre-Construction meeting, and prior to the commencement of any Work under this Contract, Contractor shall deliver evidence of insurance to Owner. Contractor shall furnish an original completed Certificate of Insurance and a copy of all insurance policies, together with all required endorsements thereto, required by the Contract Documents to the CIMS Contract Services Division, or its delegated department, clearly labeled with the name of the Project and which shall contain all information required by the Contract Documents. Contractor shall be prohibited from commencing the Work and Owner shall have no duty to pay or perform under this Contract until such evidence of insurance is delivered to Owner. No officer or employee, other than Owner's Risk Management Department, shall have authority to waive this requirement.
- 1.2.4 **NOTICE TO PROCEED AND COMMENCEMENT OF CONTRACT TIMES.** Unless otherwise stated on the Notice to Proceed, the Contract Time will commence to run on the date stated on the Notice to Proceed. No Work shall commence any earlier than the date stated on Notice to Proceed and no Work shall be performed by Contractor or any Subcontractor prior to issuance of the Notice to Proceed. Any work commenced prior to Contractor receiving a Notice to Proceed is performed at Contractor's risk.
- 1.2.5 **SUBMISSION OF PROJECT SCHEDULE(S).** Prior to commencement of Work (unless otherwise specified elsewhere in the Contract Documents), Contractor shall submit to the Director of CIMS or his/her designee the Project schedule(s), as defined in **Section 3.10** herein, a minimum of fifteen (15) days prior to the Pre-Construction Conference.
- 1.2.6 **PRE-CONSTRUCTION CONFERENCE.** Before Contractor commences any Work on the Project, a Pre-Construction Conference attended by Contractor, Design Consultant, Owner's Designated Representative(s) and others, as appropriate, will

be held to establish a working understanding among the parties as to the Work and discuss, at minimum: the Project Schedule(s) referenced in this **Article 1**; the procedures for handling Shop Drawings and other submittals; the processing of Applications for Payment; and Contractor maintaining required records. The Notice to Proceed may be issued at the Pre-Construction Conference or issued by Owner at any time at Owner's discretion. Said issuance of the Notice to Proceed shall not be unreasonably withheld by Owner.

- 1.2.7 Payments for services, goods, work, equipment and materials are contingent upon and subject to the availability and appropriation of funds and the sale of future City of San Antonio Certificates of Obligation and/or General Obligation Bonds in accordance with adopted budgets. In the event funds are not available, appropriated or encumbered to fund a Project, then, at City's discretion, this Agreement may be terminated immediately with no additional liability to City.

### **1.3 CONTRACT DOCUMENTS**

1.3.1 **EXECUTION OF CONTRACT DOCUMENTS.** Execution of the Contract by Contractor is a representation Contractor has been provided unrestricted access to the existing improvements and conditions on the Project Site, Contractor thoroughly has investigated the visible conditions at the Site and the general local conditions affecting the Work and Contractor's investigation was instrumental in preparing its bid or proposal submitted to Owner to perform the Work. Contractor shall not make or be entitled to any claim for any adjustment to the Contract Time or the Contract Sum arising from conditions which Contractor discovered or, in the exercise of reasonable care, should have discovered in Contractor's investigation.

1.3.2 **OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE.** The Drawings, Specifications and other documents, including those in electronic form, prepared by Design Consultant, its consultants or other consultants retained by Owner for the Project, which describe the Work to be executed by Contractor (collectively referred to as the "Construction Documents") are and will remain the property of Owner, whether the Project for which they are made is executed or not. Contractor shall be permitted to retain one record set. Neither Contractor nor any Subcontractor, sub-Subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by Design Consultant or Design Consultant's consultants. All copies of Construction Documents, except Contractor's record set, shall be returned or suitably accounted for to Design Consultant on request and upon completion of the Work. The Drawings, Specifications and other documents prepared by Design Consultant and Design Consultant's consultants, along with copies thereof furnished to Contractor, are for use solely with respect to this Project. The drawings, specifications or other documents are not to be used by Contractor or any Subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner. Contractor, Subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Design Consultant

and the Design Consultant's consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by Design Consultant and Design Consultant's consultants. Submittal or distribution to meet official regulatory requirements or for other purposes, in connection with this Project, is not to be construed as publication.

1.3.2.1 All of Contractor's non-proprietary, documentary Work product, including reports and correspondence to Owner, prepared pursuant to this Contract, shall be the property of Owner and, upon completion of this Contract and upon written request by Owner, promptly shall be delivered to Owner in a reasonably organized form, without restriction on its future use by Owner. For the avoidance of doubt, documentary Work product does not include privileged communications, proprietary information and documents used to prepare Contractor's Bid Proposal.

1.3.2.2 Contractor may retain for its files any copies of documents it chooses to retain and may use its Work product as it deems fit. Any materially-significant Work product lost or destroyed by Contractor shall be replaced or reproduced at Contractor's non-reimbursable sole cost. In addition, Owner shall have access during normal business hours, during the duration this Contract is in effect and for four (4) years after the final completion of the Work, unless there is an ongoing dispute under the Contract, then such access period shall extend longer until final resolution of the dispute, to all of Contractor's records and documents covering reimbursable expenses, actual base hourly rates, time cards and annual salary escalation records maintained in connection with this Contract for purposes of auditing same at the sole cost of Owner. The purpose of any such audit shall be for the verification of such costs. Contractor shall not be required to keep records of, or provide access to, the make up of any negotiated and agreed-to lump sums, unit prices or fixed overhead and profit multipliers. Nothing herein shall deny Contractor the right to retain duplicates. Refusal by Contractor to comply with the provisions hereof shall entitle Owner to withhold any payment(s) to Contractor until compliance is obtained.

1.3.2.3 All of Contractor's documentary Work product shall be maintained within Contractor's San Antonio offices, unless otherwise authorized by Owner. After expiration of this Contract, Contractor's documents may be archived in the Contractor's central record storage facility but shall remain accessible to Owner for the four (4) year period cited in **Section 1.3.22** herein.

1.3.3 **CORRELATION AND INTENT.** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by Contractor. The Contract Documents are complementary and what is required by one shall be as binding as if required by all. Performance by Contractor shall be required only to the extent consistent with the Contract Documents and which

reasonably is inferable from the Contract Documents as deemed necessary to produce the indicated results. In cases of discrepancy between any drawing and the dimension figures written thereon:

- (1) the dimension figures shall govern over scaled dimensions;
- (2) Detailed Drawings and accompanying notations shall govern over general Drawings;
- (3) Specifications shall govern over Drawings, subject to **Section 1.3.3.6** herein;
- (4) General Conditions and Supplemental Conditions;
- (5) Special Conditions shall govern over Specifications, Drawings and General/Supplemental Conditions; and
- (6) Negotiated Special Conditions shall govern over Special Conditions.

The most recent revision of Plans shall control over older revisions.

- 1.3.3.1 Organization of the Specifications into divisions, sections, articles, and the arrangement of Drawings shall not control Contractor in dividing the Work among Subcontractors or establishing the extent of Work to be performed by any trade.
- 1.3.3.2 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Where the phrases "directed by", "ordered by" or "to the satisfaction of" Owner, Design Consultant or Owner's Resident Inspector or other specified designation occur, it is to be understood that the directions, orders or instructions to which they relate are those within the scope of and authorized by the Contract Documents.
- 1.3.3.3 Reference to manufacturer's instructions, standard specifications, manuals or codes of any technical society, organization or association, laws or regulations of any governmental authority, or to any other documents, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of Contractor's Bid Proposal, except as otherwise may be

specifically stated or where a particular issue is indicated. Municipal and utility standards shall govern except in case of conflict with the Specifications. In case of a conflict between the Specifications and the referenced standard, the more stringent shall govern.

1.3.3.4 The most recently issued Document takes precedence over previous issues of the same Document. The order of precedence is as follows, with the highest authority listed herein as "1" and in descending order:

1. Modifications to this Agreement signed by Contractor, Owner and Design Consultant;
2. Addenda, with those of later date(s) having precedence over those with earlier date(s);
3. Special Conditions;
4. General Conditions;
5. Special Provisions (Horizontal Projects);
6. Specifications;
7. Drawings;

1.3.3.5 Should the Drawings and Specifications be inconsistent, contract pricing shall be based on the better quality and greater quantity of work indicated. In the event of the above-mentioned inconsistency, Owner shall determine the resolution of the inconsistency.

1.3.3.6 In the Drawings and Specifications, where certain products, manufacturer's trade names or catalog numbers are given, such information is given for the sole and express purpose of establishing a standard of function, dimension, appearance and quality of design in harmony with the Work and is not intended for the purpose of limiting competition. Materials or equipment shall not be substituted unless such a substitution has been specifically accepted for use on this Project by Owner and Design Consultant.

1.3.3.7 When the work is governed by reference to standards, building codes, manufacturer's instructions or other documents, unless otherwise specified, the edition currently in place as of the date of the submission of the bid shall apply.

1.3.3.8 Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements.

1.3.4 **INTERPRETATION.** In the interest of brevity, the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an",

but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

## **ARTICLE II. OWNER**

### **2.1 GENERAL**

2.1.1 The City of San Antonio, Texas, a home-rule, Texas Municipal Corporation located in Bexar County and identified as “Owner” or as “City” in the Contract and these General Conditions, is referred to throughout the Contract Documents as if singular in number. Owner shall designate in writing to Contractor a representative (hereafter referred to as “Owner’s Designated Representative” or “ODR”) who shall have express authority to bind Owner with respect to all matters concerning this Contract requiring Owner’s approval or authorization. Whenever the term “City” or “Owner” is found in this Contract or the Contract Documents, such term shall include the City’s agents, elected officials, employees, officers, directors, volunteers, representatives, successors and assigns.

2.1.2 Contractor acknowledges that no lien rights exist with respect to public property.

### **2.2 INFORMATION AND SERVICES TO BE PROVIDED BY OWNER**

2.2.1 Owner will provide and maintain the Preliminary Budget and general schedule, if any, for the Project. The Preliminary Budget will include the anticipated construction cost, contingencies for changes in the Work during construction and other costs that are the responsibility of Owner. The general schedule will set forth Owner’s plan for milestone dates and completion of the Project.

2.2.2 Owner shall furnish surveys, if in existence, describing physical characteristics, legal limitations and utility locations. The furnishing of these surveys and reports shall not relieve Contractor of any of its duties under the Contract Documents or these General Conditions. Information or services required of Owner by the Contract Documents shall be furnished by Owner with reasonable promptness following actual receipt of a written request from Contractor. It is incumbent upon Contractor to identify, establish and maintain a current schedule of latest dates for submittal and approval by Owner, as required in **Section 3.10** herein, including when such information or services must be delivered. If Owner delivers the information or services to Contractor as scheduled and Contractor is not prepared to accept or act on such information or services, then Contractor shall reimburse Owner for all extra costs incurred by holding, storage, retention or performance, including redeliveries by Owner in order to comply with the current schedule.

2.2.3 Unless otherwise provided in the Contract Documents, Contractor shall be furnished, free of charge, up to five (5) complete sets of the Plans and Specifications by Design Consultant. Additional complete sets of Plans and Specifications, if requested by Contractor, will be furnished at reproduction cost to Contractor.

- 2.2.4 Owner's personnel may, but are not required to, be present at the construction site during progress of the Work, along with Design Consultant in the performance of its duties, to verify Contractor's record of the number of workmen employed on the Work site, the workmen's occupational classification, the time each workman is engaged in the Work and the equipment used by the workmen in the performance of the Work, for purpose of verification of Contractor's Applications for Payment and payroll records.
- 2.2.5 Owner shall reimburse Contractor for the necessary Project-related approvals, fees and required permits with no markup paid to Contractor for these necessary Project-related approvals, fees and required permits costs unless said costs are stipulated in the Contract Documents as a part of the Work.
- 2.2.6 **OWNER'S RIGHT TO STOP THE WORK.** If Contractor fails to correct Work deemed by Owner to not be in accordance with the requirements of the Contract Documents, as required by **Section 12.3** herein, fails to carry out Work in accordance with the Contract Documents or fails to submit its preliminary schedule(s), bond(s), insurance certificate(s) or any other required submittals, Owner may issue a written order to Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. The right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of the Contractor or any other person or entity. This right shall be in addition to and not in restriction of Owner's rights pursuant to **Section 12.3** herein. Owner's issuance of an order to Contractor to stop the Work shall not give rise to any claim by Contractor for additional time, cost or general conditions costs.
- 2.2.7 **OWNER'S RIGHT TO CARRY OUT THE WORK.** If Contractor defaults, neglects or fails to carry out the Work in accordance with the Contract Documents and fails, within a three (3) work-day period after receipt of written notice from Owner, to commence and continue correction of such default, neglect or failure with diligence and promptness, Owner may, without prejudice to other remedies Owner may have, correct such deficiencies, neglect or failure. In such case, an appropriate Change Order may be issued deducting from payments then or thereafter due Contractor reflecting the reasonable cost of correcting such deficiencies, neglect or failure of Contractor, including all of Owner's incurred expenses and compensation for Design Consultant's additional services made necessary by such default, neglect or failure of Contractor. If payments then or thereafter due Contractor are not sufficient to cover such amounts for the Work performed, Contractor shall pay the difference to Owner.

## **ARTICLE III. CONTRACTOR**

### **3.1 GENERAL**

- 3.1.1 Contractor is the person or entity identified as such in 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.

- 3.1.2 Contractor shall perform the Work in a good and workmanlike manner, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship.
- 3.1.3 Contractor shall not be relieved of its obligations, responsibilities or duties to perform the Work in accordance with the Contract Documents, either by any activities or duties of Design Consultant in Design Consultant's administration of the Contract or by tests, inspections or approvals required or performed by Owner or any person other than the Contractor.

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

3.2.1 Since the Contract Documents are complementary, before starting each portion of the Work, Contractor carefully shall:

- (1) study and compare the various Drawings and other Contract Documents relative to that portion of the Work and the information furnished by Owner;
- (2) take field measurements of any existing conditions related to that portion of the Work; and
- (3) observe any conditions at the Site affecting the Work.

Any error, inconsistencies or omissions discovered by Contractor shall be reported promptly to Owner via a Request for Information in such form as the Owner may require.

3.2.1.1 The exactness of existing grades, elevations, dimensions or locations given on any Drawings issued by Design Consultant, or the work installed by other contractors, is not guaranteed by Owner. Contractor shall, therefore, satisfy itself as to the accuracy of all grades, elevations, dimensions and locations.

3.2.1.2 In all cases of interconnection of its Work with existing conditions or with work performed by others, Contractor shall verify at the site all dimensions relating to such existing or other work. Any errors due to Contractor's failure to so verify all such grades, elevations, dimensions or locations promptly shall be rectified by Contractor without any additional cost to Owner.

3.2.2 As between Owner and Contractor, and subject to the provisions of **Section 3.2.4** below, Contractor has no responsibility for the timely delivery, completeness, accuracy and/or sufficiency of the Specifications or Drawings (or any errors, omissions, or ambiguities therein), and is not responsible for any failure of the design of the facilities or structures as reflected thereon to be suitable, sound or safe. Contractor shall be deemed to have satisfied itself as to

the design contained in and reflected by the Specifications and the Drawings. In particular, but without prejudice to the generality of the foregoing, Contractor will review the Contract Documents to establish that:

- 3.2.2.1 the information is sufficiently complete to perform the Work; and
  - 3.2.2.2 there are no obvious or patent ambiguities, inaccuracies or inconsistencies within or between the documents forming the Contract; and
  - 3.2.2.3 Contractor shall work with the aforementioned Contract Documents so as to perform the Work and of each and every part thereof such that the Work and each and every part thereof will, jointly and severally, be in accordance with the requirements of the Contract Documents and in particular, but without limiting the generality of the foregoing, such that the Work as a whole and, as appropriate, each and every part thereof, shall comply with the requirements of any performance specifications.
- 3.2.3 Any design errors or omissions noted by Contractor during its review promptly shall be reported to Owner, but it is recognized that the Contractor's review is made in Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor is not required to ascertain if Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or made known to Contractor promptly shall be reported both to Owner and Design Consultant.
- 3.2.4 If Contractor believes additional cost or time is involved because of clarifications or instructions issued by Design Consultant, in response to the Contractor's Notices or Requests for Information, Contractor shall make Claims as provided in **Section 4.3.6** and **Section 4.3.7** herein. If Contractor fails to perform the obligations of **Section 3.2.1** and **Section 3.2.2** herein, Contractor shall pay such costs and damages to Owner as would have been avoided if Contractor had performed such obligations. Contractor shall not be liable to Owner or Design Consultant for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents, unless Contractor recognized or should have recognized such error, inconsistency, omission or differences and knowingly failed to report it to Owner and Design Consultant, as required by this **Section 3.2.4**.

### **3.3 SUPERVISION AND CONSTRUCTION PROCEDURES**

- 3.3.1 Contractor shall supervise, inspect and direct the Work competently and efficiently, exercising the skill and attention of a reasonably prudent Contractor, devoting such attention and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor solely shall be responsible for the means, methods, techniques, sequences, procedures and

coordination of all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods and/or techniques, Contractor then shall evaluate the jobsite safety thereof and, except as stated herein below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If, upon its evaluation, Contractor determines such means, methods, techniques, sequences or procedures may not be safe, Contractor shall give timely written notice to Owner and Design Consultant and Contractor shall not proceed with that portion of the Work without further written instructions from Owner. Sequencing and procedures shall be coordinated and agreed upon by Owner, Design Consultant and Contractor.

- 3.3.2 Contractor shall be responsible to Owner for the acts and omissions of Contractor's agents and employees, Subcontractors and their agents and employees and other persons or entities performing portions of the Work for or on behalf of Contractor or any of its Subcontractors.
- 3.3.3 Contractor shall be responsible for inspection of portions of Work already performed, to determine which such portion are in proper condition to receive subsequent Work.
- 3.3.4 Contractor shall bear responsibility for design and execution of acceptable trenching and shoring procedures, in accordance with Texas Government Code, Section 2166.303 and Texas Health and Safety Code, Subchapter C, Sections 756.021, et seq.
- 3.3.5 It is understood and agreed the relationship of Contractor to Owner shall be of an independent contractor. Nothing contained or inferable in the Contract documents shall be read, deemed or construed to make Contractor the agent, servant or employee of Owner or create any partnership, joint venture or other association between Owner and Contractor. Any direction or instruction by Owner, in respect of the Work, shall relate to the results the Owner desires to obtain from the Work and shall in no way affect Contractor's independent contractor status, as described herein.
- 3.3.6 Contractor shall review Subcontractor(s) written safety programs, procedures and precautions in connection with performance of the Work. However, Contractor's duties shall not relieve any Subcontractor(s) or any other person or entity (e.g. a supplier), including any person or entity with whom Contractor does not have a contractual relationship, of their responsibility or liability relative to compliance with all applicable federal, state and local laws, rules, regulations and ordinances, which shall include the obligation to provide for the safety of their employees,

persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this **Section 3.4.6** are not intended to impose upon Contractor any additional obligations Contractor would not have under any applicable state or federal laws including, but not limited to, any rules, regulations or statutes pertaining to the Occupational Safety and Health Administration.

### **3.4 LABOR AND MATERIALS**

3.4.1 Unless otherwise provided in the Contract Documents, Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.2 **PREVAILING WAGE RATE AND LABOR STANDARD PROVISIONS.** The Provisions of Chapter 2258 of the Texas Government Code, and the “Wage and Labor Standard Provisions” amended in City of San Antonio Ordinance 2008-11-20-1045, expressly are made a part of this Contract. In accordance therewith, a schedule of the general prevailing rate of per diem wages in this locality for each craft or type of worker needed to perform this contract shall be obtained by Contractor from the City of San Antonio’s Labor Compliance Office and included in Contractor’s Project bid package and Plans & Specifications, prior to Contractor bidding of the Project and such schedule shall become a part hereof. Contractor shall forfeit, as a penalty to Owner, sixty dollars (\$60.00) for each laborer, workman or mechanic employed for each calendar day, or portion thereof, in which such laborer, workman or mechanic is paid less than the stipulated prevailing wage rates for any work done under this Contract by the Contractor or any Subcontractor employed on the project. The establishment of prevailing wage rates, pursuant to Chapter 2258 of the Texas Government Code, shall not be construed to relieve Contractor from its obligation under any federal or state law, regarding the wages to be paid to or hours worked by laborers, workmen or mechanics, insofar as applicable to the work to be performed hereunder. Contractor, in the execution of this Project, agrees it shall not discriminate in its employment practices against any person because of race, color, creed, sex, or origin. Contractor agrees it will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, creed, national origin, sex, age, handicap or political belief or affiliation. This Contract provision shall be included in its entirety in all Subcontractor agreement entered into by the Contractor or any Subcontractor employed on the project.

#### **3.4.3 SUBSTITUTIONS**

3.4.3.1 Contractor’s proposed substitutions and alternates may be rejected by Owner without explanation and shall be considered by Owner only under one or more of the following conditions:

- (a) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing;

- (b) specified products are unavailable through no fault of Contractor; and
- (c) when in the judgment of Owner or Design Consultant, a substitution substantially would be in Owner's best interests in terms of cost, time or other considerations.

3.4.3.2 Contractor shall submit to Owner and Design Consultant:

- (a) a full explanation of the proposed substitution and submittal of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures and other like information necessary for a complete evaluation of the substitution;
- (b) a written explanation of the reasons the substitution is necessary, including the benefits to the Owner and to the Work, in the event the substitution is acceptable to Owner;
- (c) the adjustment, if any, in the Contract Sum;
- (d) the adjustment, if any, in the time of completion of the Contract and the construction schedule; and
- (e) in the event of a substitution under **Section 3.4.2.1** herein, an affidavit stating:
  - (1) Contractor's proposed substitution conforms to and meets all the requirements of the pertinent Specifications and requirements shown on the Drawings; and
  - (2) Contractor accepts the warranty and correction obligations in connection with the proposed substitution as if originally specified by Design Consultant.

Proposals for substitutions shall be submitted to Design Consultant in sufficient time to allow Design Consultant no less than twenty-one (21) calendar days for review. No substitutions will be considered or allowed without Contractor's submittal of complete substantiating data and information as stated hereinbefore.

3.4.3.3 In the event of a substitution submittal under this **Section 3.4.3**, and whether or not any such proposed substitution is accepted by Owner or Design Consultant, Contractor shall reimburse Owner, at Owner's reasonable discretion, for any fees

incurred and charged by Design Consultant or other consultants for evaluating each proposed substitute.

- 3.4.3.4 Except as otherwise stipulated in the Contract Documents or required for safety or protection of persons or the Work or property at the Site or adjacent thereto, no Work will be allowed by Owner between the hours of 10:00 p.m. and 6:00 a.m. of the following calendar day, unless directed by the ODR or requested in writing by Contractor and approved by Owner.
- 3.4.4 Contractor shall, at all times, enforce strict discipline and good order among persons working on the Project and shall not employ or continue to employ any unfit person on the Project or any person not skilled in the assigned work. Contractor shall be liable for and responsible to Owner for all acts and omissions of its employees, all tiers of its Subcontractors, material suppliers, anyone who Contractor may allow to perform any Work on the Project and their respective officers, agents, employees, and consultants who Contractor may allow to come on the job site, with the exception of Owner or Owner's Designee. Owner, at any time, for any reason or for no reason, may direct Contractor to remove any employee, Subcontractor, material supplier or anyone else from the Project and Contractor promptly shall comply with Owner's direction. In addition, if Contractor receives written notice from Owner complaining about any Subcontractor, employee or anyone who is a hindrance to proper or timely execution of the Work, Contractor shall remedy such complaint without delay to the Project and at no additional cost to Owner. This provision shall be included in all contracts between the Contractor and all Subcontractors of all tiers.
- 3.4.5 Contractor recognizes and acknowledges that the Project Site is a public facility representing the City of San Antonio. As such, Contractor shall prohibit the possession or use of alcohol, controlled substances, tobacco and any prohibited weapons on the Project Site and shall require appropriate dress of Contractor's forces consistent with the nature of the Work being performed, including the wearing of shirts at all times. Harassment of any kind, including sexual harassment, of employees of Contractor or any Subcontractor, employees or consultants of Owner or any visitor to the site by employees of Contractor or a Subcontractor strictly is forbidden. Any employee of Contractor or a Subcontractor who is found to have engaged in such conduct shall be subject to appropriate disciplinary action by Contractor, including removal from the Project Site.
- 3.4.6 Contractor only shall employ or use labor in connection with the Work capable of working harmoniously with all trades, crafts and any other individuals associated with the Project.
- 3.4.7 All materials and installed equipment shall be as specified in the Contract Documents, and if not specified, shall be of good quality and shall be new, except as otherwise provided in the Contract Documents. If required by Owner or Design Consultant, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind and quality of materials and equipment

installed. Contractor may make substitutions only with the consent of Owner, after Contractor's compliance with **Section 3.4.2** herein.

- 3.4.8 All materials shall be shipped, stored and handled in a manner which will protect and ensure their condition at the time of incorporation in the Work. After installation, all materials shall be properly protected against damage to ensure they are in the condition as required by **Section 3.5.1** herein when the Work is Substantially Completed or Owner takes over use and occupancy, whichever is earlier.
- 3.4.9 Contractor shall procure and furnish to Owner all guarantees, warranties, spares and maintenance manuals called for by the Specifications or which normally are provided by a manufacturer. The maintenance manual shall include a catalog for any equipment, materials, supplies or parts used in the inspection, calibration, maintenance or repair of the equipment and items in the catalog shall be readily available for purchase.
- 3.4.10 During construction of the Work and for four (4) years after final completion or longer if, during the duration of this Contract or during the four (4) years after the final completion of the Work, a dispute between any parties to this Project exists, Contractor shall retain and shall require all Subcontractors to retain for inspection and audit by Owner all books, accounts, reports, files, time cards, material invoices, payrolls and evidence of all other direct or indirect costs related to the bidding and performance of this Work. Upon request by Owner, a legible copy or the original of any or all such records shall be produced by Contractor at the administrative office of Owner. To the extent that it requests copies of such documents, Owner will reimburse Contractor and its Subcontractors for copying costs. Contractor shall not be required to keep records of or provide access to the make up of any negotiated and agreed-to lump sums, unit prices or fixed overhead and profit multipliers.

## **3.5 WARRANTY**

- 3.5.1 Contractor warrants to Owner materials and equipment furnished and installed under the Contract will be of good quality and new, unless otherwise required or permitted by the Contract Documents, the Work will be free from defects not inherent in the quality required or permitted and the Work will conform to the requirements of the Contract Documents. Work not conforming to this warranty and these requirements, including substitutions not properly approved and authorized by Owner, may be considered defective. Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not

executed by the Contractor, improper or insufficient maintenance, improper operation, normal wear and tear and normal usage, and additional damage or defects caused by Owner's failure to promptly notify Contractor. If required by Owner, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

- 3.5.2 A right of action by Owner for any breach of Contractor's express warranty herein shall be in addition to, and not in lieu of, any other remedies Owner may have under this Contract at law or in equity, regarding any defective Work.
- 3.5.3 The warranty provided in **Section 3.5.1** herein shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents. Such warranty shall be interpreted to require Contractor, upon written timely demand by Owner, to replace defective materials and equipment and re-execute any defective Work disclosed to the Contractor by the Owner within a period of one (1) year after Substantial Completion of the applicable Work or, in the event of a latent defect, within one (1) year after discovery thereof by Owner.
- 3.5.4 All warranties shall be assignable by Owner. Submittal of all warranties and guarantees are required as a prerequisite to the final payment.
- 3.5.5 Except when a longer warranty time is specifically called for in the Specifications or is otherwise provided by law or by manufacturer, all warranties shall be at minimum for twelve (12) months and shall be in form and content otherwise reasonably satisfactory to Owner. Owner and Contractor acknowledge that the Project may involve construction work on more than one (1) building or section of infrastructure of Owner's. Each building, section of infrastructure or approved phase of each section of infrastructure may have its own separate and independent date of Substantial Completion or Final Completion. If separate dates for Substantial Completion and Final Completion are granted by Owner, Contractor shall maintain a complete and accurate schedule of the dates of Substantial Completion and dates upon which the one (1) year warranty on each building, phase or section of infrastructure that achieved Substantial Completion will expire. If separate dates are granted, Contractor agrees to provide notice of the warranty expiration date(s) to Owner and Design Consultant at least one (1) month prior to the expiration of the one (1) year warranty period on each building, section of infrastructure or each phase of the section of infrastructure which has achieved Substantial Completion. Prior to termination of any one (1) year warranty period, Contractor shall accompany Owner and Design Consultant on re-inspection of the building, section of infrastructure or phase of the section of infrastructure and be responsible for correcting any reasonable additional deficiencies not caused by the Owner or by the use of the building, section of infrastructure or phase of the section of infrastructure observed and/or reported during the re-inspection. For extended warranties required by the Contract Documents, Owner will notify Contractor of deficiencies and Contractor shall start remedying these defects within seven (7) calendar days of initial notification from Owner. Contractor shall prosecute the work without interruption until

accepted by Owner and Design Consultant, even though such prosecution may extend beyond the limit of the warranty period. If Contractor fails to provide notice of the expiration of the one (1) year warranty period at least one (1) month prior to the expiration date and conduct the required walk through with Owner, Contractor's warranty obligations described in this **Section 3.5.5** shall continue until such inspection is conducted and any deficiencies found in the inspection is corrected.

- 3.5.6 Warranties shall become effective on a date established by Owner in accordance with the Contract Documents. This date shall be the date of Substantial Completion of the entire Work, unless otherwise provided in any Certificate of Partial Substantial Completion approved by the parties, except for Work to be completed or corrected after the date of Substantial Completion and prior to final payment and those occurrences addressed in **Section 3.5.4** herein. Warranties for Work to be completed or corrected after the date of Substantial Completion and prior to Final Completion shall become effective on the later of the date the Work is completed or corrected and accepted by Owner and Design Consultant or the date of final completion of the Work.
- 3.5.7 Neither final payment nor compliance by Contractor with any provision in the Contract Documents shall constitute an acceptance of Work not done in accordance with the Contract Documents or relieve Contractor or its sureties of liability, with respect to any warranties or responsibility for faulty materials and workmanship. Contractor warrants that the Work will conform to the requirements of the Contract Documents.
- 3.5.8 Contractor agrees to assign to Owner, at the time of Final Completion of the Work, any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties, provided that such assignment shall contain a reservation of Contractor's right also to enforce the manufacturer's warranties. As a condition precedent to final payment, Contractor shall prepare a notebook with reference tabs and submit three (3) copies of the notebook to Owner that includes a complete set of warranties from Subcontractors, manufacturers or suppliers, as appropriate, and executed by and between Contractor and Owner, as required under this Agreement, with a specified warranty commencement date, as required by the Contract Documents. Copies of the complete set of warranties from Subcontractors, manufacturers and/or suppliers, as appropriate, executed by Contractor as required by the Contract Documents, with and between Owner and Contractor. A specified warranty commencement date, as required by the Contract Documents, also shall be submitted to Owner in an electronic format (PDF) on a Compact Disc (CD).
- 3.5.9 When Contractor is constructing a building, the building shall be watertight and leak proof at every point and in every area, except where leaks can be attributed to damage to the building by external forces beyond Contractor's control. Contractor, immediately upon notification by the Owner of water penetration, shall determine the source of water penetration and perform any work necessary

to make the building watertight. Contractor also shall repair or replace any damaged material, finishes and/or fixtures damaged as a result of any water penetration, returning the building to original condition. The costs of such determination and repair shall be borne by Contractor only to the extent that the leak(s) is/are attributable to faulty workmanship or unauthorized or defective materials.

**3.6 TAXES.** Contractor will not include in the Contract Sum or any modification thereto any amount for sales, use or similar taxes for which Owner is exempt. Upon request by Contractor, Owner will provide Contractor with a tax exemption certificate or other documentation necessary to establish Owner's exemption from such taxes.

### **3.7 PERMITS, FEES AND NOTICES**

3.7.1 **PERMITS.** Unless otherwise provided in the Contract Documents or by Owner, as per **Section 2.2.2** herein, it is the responsibility of and Contractor shall secure all permits, licenses and inspections. Owner and Design Consultant may assist Contractor, when necessary, in obtaining such permits, licenses and inspections necessary for the proper execution and completion of the work. For federally funded construction projects, when applicable, Owner shall prepare and submit the necessary paperwork to satisfy Texas Pollutant Discharge Elimination System (hereafter referred to as "TPDES"), regulations of the Texas Commission on Environmental Quality.

3.7.2 Contractor shall comply with and give all notices required by law, ordinance, rule, regulations and lawful orders of public authorities applicable to performance of the Work.

3.7.3 It is not Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes and rules and regulations. However, if Contractor observes that portions of the Contract Documents are at variance therewith, Contractor promptly shall notify Owner and Design Consultant in writing of any variances and all necessary changes shall be accomplished by appropriate modification(s) before Contractor performs any Work affected by such modification(s).

3.7.4 If Contractor performs Work knowing Work is contrary to laws, statutes, ordinances, building codes and rules and regulations, without such notice to and approval from Owner and Design Consultant, Contractor shall assume sole responsibility for performing such Work and shall bear all costs attributable to correct such Work.

3.7.5 Contractor also shall assist Owner in obtaining all permits and approvals and, at Owner's request, pay all fees and expenses, if any, associated with TPDES regulations of the Texas Commission on Environmental Quality, as well as local authorities, if applicable, which require completion of documentation and/or acquisition of a "Land Disturbing Activities Permit" for a Project. Contractor's obligations under this paragraph do not require it to perform engineering services

during the pre-construction phase to prepare proper drainage for the Project Site. However, any drainage alterations made by Contractor during the construction process, which require the issuance of a permit, shall be at Contractor's sole cost. It will be Contractor's responsibility to prepare and submit the permit approval documentation provided by the regulatory agencies prior to beginning any Work.

### **3.8 ALLOWANCES**

- 3.8.1 Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as Owner may direct, but Contractor shall not be required to employ persons or entities to whom Contractor has reasonable objection.
- 3.8.2 Unless otherwise provided in the Contract Documents:
- 3.8.2.1 Allowances shall cover the cost to Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- 3.8.2.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses, contemplated for stated allowance, shall be included in the allowances;
- 3.8.2.3 Whenever actual costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect both the difference between actual costs and the allowances under **Section 3.8.2.1** herein and all changes in Contractor's costs under **Section 3.8.2.2** herein.
- 3.8.3 Materials and equipment under an allowance shall be selected by Owner within such time as is reasonably specified by Contractor as necessary to avoid any delay in the Work.

### **3.9 SUPERINTENDENT/KEY PERSONNEL**

- 3.9.1 At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who is able to communicate fluently in English, along with any necessary assistant(s) who is/are satisfactory to Owner. Any superintendent designee shall be identified in writing to Owner promptly after Owner issues written Notice to Proceed. The superintendent shall represent Contractor at all time and all directions given to the superintendent shall be binding on Contractor. The designated superintendent shall not be replaced without written notice to and the approval of Owner, which approval will not be unreasonably withheld, except with good reason (including any termination or disability of the superintendent) or under extraordinary circumstances. The superintendent may not be employed on any other project prior to Final

Completion of the Work without the approval of Owner, which approval will not be unreasonably withheld.

3.9.2 Contractor shall furnish a list to Design Consultant and Owner of all Architects, Engineers, consultants, Sub-Consultants, job-site superintendents, Subcontractors and suppliers involved in the Project construction. Design Consultant also shall provide said information to Owner.

3.9.2.1 Owner, upon the showing of good and reasonable cause, may reject or require removal of any Architect, Engineer, consultant, sub-consultant, job superintendent, employee of the Contractor, Subcontractor or sub-Subcontractor and/or supplier involved in the Project.

3.9.2.2 Contractor shall provide an adequate staff for the proper coordination and expedition of the Work. Owner reserves the right to require Contractor to remove from the Project any employee(s) Owner, at its sole discretion, deems incompetent, careless, insubordinate, unnecessary or in violation of any provision in these Contract Documents. This provision is applicable to Subcontractors, sub-Subcontractors and their employees.

3.9.2.3 Owner reserves the right to utilize one or more of its employees or consultants to function in the capacity of Owner's Inspector, whose primary function will be daily inspections, checking pay requests or construction timelines and the verification of the storage of supplies and materials.

3.9.2.4 Contractor shall not change any key personnel or key Subcontractors without the prior written consent of Owner, which consent shall not be unreasonably withheld. In the event key personnel leaves Contractor's employment, such key personnel's replacement shall be subject to Owner's reasonable approval.

### **3.10 CONTRACTOR'S PROJECT SCHEDULES**

3.10.1 **PROJECT SCHEDULE METHOD.** Contractor shall create and maintain a Critical Path Method (hereafter referred to as "CPM") Project Schedule, showing the manner of execution of Work which Contractor intends to follow, in order to complete the Project within the allotted time. The Project Schedule shall employ computerized CPM for the planning, scheduling and reporting of Work, as described in this **Section 3.10**. Contractor shall create and maintain the Project Schedule using project management scheduling software compatible with Owner's project management scheduling software. The observance of the requirements herein is an essential part of the Work to be performed under the Contract.

- 3.10.2 **SCHEDULING PERSONNEL.** Unless otherwise indicated in writing by Owner, Contractor shall provide an individual, who shall be referred to hereafter as “Scheduler”, to create and maintain the Project Schedule. Scheduler shall be proficient in CPM analysis, possess sufficient experience to be able to perform required tasks on the specified software and able to prepare and interpret reports from the software. Scheduler shall be made available for discussion or meetings when requested by Owner.
- 3.10.3 **PROJECT SCHEDULE SUBMISSION**
- 3.10.3.1 Unless indicated otherwise, Contractor shall submit Project Schedule(s) for the Work in relation to the entire Project to Owner and Design Consultant at least fifteen (15) calendar days prior to the pre-construction conference.
- 3.10.3.2 All Project Schedule submittals shall be in the electronic form to include PDF plots of the schedule, a PDF plot defining the Critical Path and two week look-ahead, and include the native compatible scheduling file format. Contractor shall submit the schedule to Owner and Design Consultant via electronic mail, CD-Rom or any other electronic format acceptable to Owner.
- 3.10.3.3 This initial schedule shall indicate the dates for starting and completing the various aspects/phases required to complete the Work, including mobilization, procurement, installation, testing, inspection and acceptance of all the Work of the Contract, including any contractually mandated milestone dates. The Project Schedule shall not exceed the time limits set forth in the Contract Documents. Contractor shall organize the Project Schedule and provide adequate detail so the Schedule is capable of measuring and forecasting the effect of delaying events on completed and uncompleted activities.
- 3.10.3.4 The Project Schedule shall show the order in which Contractor proposes to carry out the Work in accordance with the final approved phasing plan, if any, and the anticipated start and completion dates of each phase of the Work. The Project Schedule shall be in the form of a time scaled work progress chart, to indicate the percentage of Work scheduled for completion at various critical milestones.
- 3.10.3.5 Contractor shall maintain a schedule of Shop Drawings and Sample Submittals and each submitted Shop Drawing and Sample Submittal shall list each required submittal and the expected time(s) for submitting, reviewing and processing such submittal.
- 3.10.3.6 Owner will review the Project Schedule within fifteen (15) calendar days for compliance with the specifications and notify Contractor of its acceptability.

3.10.4 **PROJECT SCHEDULE SEQUENCING.** The Project Schedule shall show the sequence and interdependence of activities required for complete performance of the Work. Contractor shall be responsible for assuring all Work sequences are logical and show a coordinated plan of Work in accordance with the sequence of work outlined in the plans. The purpose of Owner requiring the Project Schedule shall be to:

3.10.4.1 Ensure adequate planning during the execution and progress of the Work in accordance with the allowable number of calendar days and all milestones;

3.10.4.2 Assure coordination of the efforts of Contractor, Owner, utilities and others that may be involved in the Project and those activities are included in the Schedule highlighting coordination points with others;

3.10.4.3 Assist Contractor and Owner in monitoring the progress of the Work and evaluating proposed changes to the Contract; and

3.10.4.4 Assist Owner in administering the Contract time requirements.

3.10.5 **PROJECT SCHEDULE ACTIVITIES.** Contractor shall provide Owner a legend for all abbreviations used. The activities shall be coded so that organized plots of the Project Schedule may be produced. Typical activity coding includes traffic control phase, location and work type. Contractor shall show an estimated production rate per working day for each Work activity. Activity durations shall be based on production rates shown. Each activity on the Project Schedule shall include:

3.10.5.1 An activity number utilizing an alphanumeric designation system that is agreeable to Owner;

3.10.5.2 A concise description of the Work represented by the activity; and

3.10.5.3 Activity durations in whole work days, with a maximum of twenty (20) work days. Durations greater than twenty (20) work days may be used for non-construction activities (mobilization, submittal preparation, curing, etc.), and other activities mutually agreeable between Owner and Contractor.

3.10.6 **PROJECT SCHEDULE WORK DURATION AND RESOURCES**

3.10.6.1 The Project Schedule layout shall be grouped by Project and then by Work Breakdown Structure (hereafter referred to as "WBS") for organizational purposes.

- 3.10.6.2 The original and remaining Work duration shall be displayed. The grouping band will, by default, report Work days planned. One additional level of effort activity shall be added to the schedule as a “time calculator” with a seven (7) day calendar without holidays reflected. The calculation of days should be reflected in the appropriate duration columns.
- 3.10.6.3 Work shall be scheduled based upon Contractor’s standard five (5) day work week, utilizing the appropriate calendar assignments and using compatible Project Scheduling software.
- 3.10.6.4 Assign working calendars for the days Contractor plans to work. Contractor shall designate all twelve (12) Owner holidays as non-working days (holidays). For dates beyond the then-current calendar year, Contractor shall assume Owner holidays are the same as the current calendar year.
- 3.10.6.5 Seasonal weather conditions shall be considered and included in the Project Schedule for all work influenced by temperature and/or precipitation. Seasonal weather conditions shall be determined by an assessment of average historical climatic conditions. Average historical weather data is available through the National Oceanic and Atmospheric Administration (hereafter referred to as “NOAA”). These effects shall be simulated through the use of work calendars for each major work type (i.e., earthwork, concrete paving, structures, asphalt, drainage, etc.). Project and work calendars should be updated each month to show days actually able to work on the various work activities.
- 3.10.6.6 Only Owner-responsible delays in activities that affect milestone dates or the Contract completion date, as determined by CPM analysis, will be considered for a time extension.

3.10.7 **PROJECT SCHEDULE - OTHER REQUIREMENTS.** The Project Schedule shall:

- 3.10.7.1 have all Work coded and organized by WBS. An example of an acceptable WBS will be provided, upon written request, by Owner to Contractor;
- 3.10.7.2 reflect Duration Percent complete as the percent complete type;
- 3.10.7.3 reflect Fixed Units as the duration type;
- 3.10.7.4 include submittals with a logical tie to what each drives;
- 3.10.7.5 add proposed Change Order(s) and those Change Order(s) shall be reflected on the Schedule as proposed Change Order(s). This task will

be linked to the schedule with logical ties and approved by Owner. Upon approval of a Change Order, a task shall be renamed and shall identify Work performed and Change Order number and resources will be added to the task;

3.10.7.6 only have constraints in accordance with the plans;

3.10.7.7 include activity milestones for material delivery;

3.10.7.8 disallow default progress; and

3.10.7.9 include a detailed explanation in the Project narrative, if Work is performed out of sequence.

### 3.10.8 **PROJECT SCHEDULE JOINT REVIEW AND ACCEPTANCE**

3.10.8.1 The Project Schedule and successive updates or revisions thereof are for Contractor's use in managing the Work. The Project Schedule is for the information of Owner and to demonstrate that Contractor has complied with requirements for planning the Work. Owner's acceptance of a Schedule and Schedule updates or revisions constitutes Owner's agreement to coordinate its own activities with Contractor's activities, as shown on the schedule.

3.10.8.2 Within fifteen (15) calendar days of receipt of Contractor's proposed Project Schedule, Owner shall evaluate the Schedule for compliance with this specification and notify Contractor of its findings. If Owner requests a revision or justification, Contractor shall provide satisfaction to Owner within seven (7) calendar days. If Contractor submits a Project Schedule for acceptance, based on a sequence of work not shown in the plans, Contractor shall notify Owner in writing of said sequence of work, separate from the Schedule submittal.

3.10.8.3 Owner's review and acceptance of Contractor's Project Schedule only is for conformance to the requirements of the Contract Documents. Review and acceptance by Owner of Contractor's Project Schedule does not relieve Contractor of any of its responsibility for the Project Schedule, Contractor's ability to meet interim milestone dates (if so specified) or meeting the Contract completion date, nor does such review and acceptance expressly or by implication warrant, acknowledge or admit the reasonableness of the logic, durations, manpower or equipment loading of Contractor's Project Schedule. In the event Contractor fails to define any element of Work, activity or

logic and Owner's review does not detect this omission or error, such omission or error, whether or when discovered by Contractor or Owner, shall be corrected by Contractor at the next monthly schedule update and shall not affect the Project or Contract completion date.

- 3.10.8.4 Acceptance of the Project Schedule, or update and/or revision thereto, does not indicate any approval of Contractor's proposed sequences and duration.
- 3.10.8.5 Acceptance by Owner of the Project Schedule or updated Project Schedule which exceeds contractual time does not alleviate Contractor from meeting the contractual completion date.
- 3.10.8.6 Acceptance of a Project Schedule update or revision indicating early or late completion does not constitute Owner's consent to any changes, alter the terms of the Contract, waive either Contractor's responsibility for timely completion, or waive Owner's right to damages for Contractor's failure to do so.
- 3.10.8.7 Contractor's scheduled dates for completion of any activity or of the entire Work do not constitute a change in terms of the Contract. Change Orders are the only method of modifying the completion date(s) and Contract time.
- 3.10.8.8 Submittal of a schedule, schedule revision or schedule update constitutes Contractor's representation to Owner, as of the date of the submittal, of the accurate depiction of all progress to date and that Contractor will follow the schedule as submitted in performing the Work.

### 3.10.9 **PROJECT SCHEDULE UPDATES AND REVISIONS**

- 3.10.9.1 The Project Schedule shall be updated monthly, at a minimum, to reflect progress to date and current plans for completing the Work. A paper and an electronic copy of the update shall be submitted to Owner and Design Consultant as directed. Owner has no duty to make progress payments to Contractor unless Contractor's payment application accompanied by the updated Project Schedule. The anticipated date of Substantial Completion shall show all extensions of time granted through Change Order(s) as of the date of the update.
- 3.10.9.2 The Project Schedule update shall be submitted no later than the date the pay application is submitted.
- 3.10.9.3 Contractor shall meet with Owner each month, at a scheduled Project Schedule update meeting, to review actual progress made through the data date of the schedule update, as determined by Owner. The review of progress will include dates of activities actually started and/or completed, the percentage of Work completed, the remaining duration of

each activity started and/or completed and the amount of Work still to complete, with an analysis of the relationship between the remaining duration of the activity and the quantity of material to install over that given period of time with a citation of past productivity.

3.10.9.4 The monthly Schedule Update shall include a progress narrative, explaining the Project's progress, identifying all progress made out of sequence, defining the Critical Path, identification of any potential delays, and other relevant data. A Project Schedule Narrative template will be required for the narrative. Upon request, Owner shall supply said template to Contractor.

3.10.9.5 Each Schedule shall segregate the Work into a sufficient number of activities to facilitate the efficient use of critical path method scheduling by Contractor, Owner and Design Consultant. The Project Schedule layout shall be grouped first by Project then by WBS. The layout shall include the following columns:

- (1) Activity ID
- (2) Activity Description
- (3) Original Durations
- (4) Remaining Durations
- (5) Early Start and Early Finish Dates
- (6) Late Start and Late Finish Dates
- (7) Total Float
- (8) Performance Percent Complete
- (9) Display logic and target bars in the Gantt bar chart view

3.10.9.6 Each schedule shall include activities representing manufacturing, fabrication or ordering lead time for materials, equipment or other items for which Design Consultant is required to review submittals, shop drawings, product data or samples.

3.10.9.7 Each schedule, other than the initial schedule, shall:

- (1) indicate the activities, or portions thereof, which have been completed;
- (2) reflect the actual time for completion of such activities; and

- (3) reflect any changes to the sequence or planned duration of all activities.

3.10.9.8 If any updated schedule exceeds the time limits set forth in the Contract Documents for Substantial Completion of the Work, Contractor shall include, along with its updated schedule, a statement of the reasons for the anticipated delay in achieving Substantial Completion of the Work and Contractor's planned course of action for completing the Work within the time limits set forth in the Contract Documents. If Contractor asserts that the failure of Owner or Design Consultant to provide requested and required information to Contractor as the reason for anticipated delay in completion, Contractor also shall specify what information has been requested and is required from Owner or Design Consultant.

3.10.9.9 Neither Owner nor Contractor shall have exclusive ownership of float time in the schedule and all float time shall inure to the benefit of the Project.

3.10.9.10 Submission of any schedule under this Contract constitutes a representation by Contractor that, as of the date of the submittal:

- (1) the schedule represents the sequence in which Contractor intends to prosecute the remaining Work;
- (2) the schedule represents the actual sequence and duration used to prosecute the completed Work;
- (3) to the best of its knowledge and belief, Contractor is able to complete the remaining Work in the sequence and time indicated; and
- (4) that Contractor intends to complete the remaining work in the sequence and time indicated.

3.10.9.11 If Contractor desires to make major changes in the Project Schedule, Contractor shall notify Owner in writing and submit the proposed schedule revision. The written notification shall include the reason for the proposed revision, what the revision is composed of and how the revision was incorporated into the schedule. Major changes are hereby defined as those that may affect compliance with the contract requirements or those that change the critical path. All other changes may be accomplished through the monthly updating process without written notification.

### 3.10.10 **COMPLETION OF WORK**

3.10.10.1 Contractor is accountable for substantially completing the Work in the Contract Time or as otherwise amended by Change Order.

3.10.10.2 If, in the sole judgment of Owner, the Schedule update reflects Work is behind schedule and the rate of performance of Work is inadequate to regain scheduled progress to insure Contractor achieving any Project Milestones (including, but not limited to, Substantial Completion) in accordance with the Project Schedule, Owner may, at its sole option, give written notice to Contractor and direct Contractor, at Contractor's sole expense, to propose and adopt a plan to accelerate the Work so that the Work conforms to the Project Schedule and Project Milestones previously agreed upon. Contractor may, but is not limited to, propose:

- (1) increasing Project work forces;
- (2) increasing Project equipment or tools;
- (3) increasing the hours of work or number of shifts per day;
- (4) expediting the delivery of Project materials;
- (5) changing, with the approval of Owner, the schedule logic

and

Work sequences; or

- (6) taking some other action as Contractor may proposes, if acceptable to Owner.

3.10.10.3 Within ten (10) calendar days after such notice from Owner, Contractor shall notify Owner in writing of the specific measures taken and/or planned to be taken to increase the rate of progress of Work on the Project. Contractor shall include an estimate as to the date of scheduled full progress recovery and an updated Project Schedule, illustrating Contractor's plan for achieving timely completion of the Project Milestone's and the Project's Substantial Completion.

3.10.10.4 Should Owner deem Contractor's plan of action inadequate to achieve the desired acceleration to bring the Work back on the Project Schedule and achieve Substantial Completion on time, Owner shall have the right to order Contractor, at Contractor's sole expense, to take any corrective measures Owner deems necessary to expedite the progress of Work including, without limitations:

- (1) increasing work forces and hours, to include Contractor working additional shifts of overtime;

- (2) supplying additional manpower, equipment and facilities;
- (3) re-sequencing the Work;
- (4) expediting the fabrication and supply of materials; and/or
- (5) other similar measures Owner may direct (hereafter **(1) – (5)** herein collectively referred to as “Extraordinary Measures”).

Such Extraordinary Measures Owner directs shall continue until the progress of the Work complies with the Milestone required by the Contract Documents.

3.10.10.5 Owner’s right to require Extraordinary Measures solely is for the purpose of ensuring Project Milestones and Substantial Completion of the Work is achieved within the Contract Time. Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by Owner under or pursuant to this **Section 3.10**, except as may be provided under the provisions of **Section 4.3.11** herein.

3.10.10.6 Owner may exercise the rights furnished pursuant to this **Section 3.10.5** as frequently as Owner deems necessary to ensure Contractor’s performance of the Work is in compliance with any milestone date or completion date(s) set forth in the Contract Documents.

3.10.10.7 If reasonably required by Owner, Contractor also shall prepare and furnish Project cash flow projections, manning data for critical activities and schedules for the purchase and delivery of all critical equipment and material, together with periodic updating thereof.

3.10.10.8 Contractor shall recommend to Owner and Design Consultant a schedule for procurement of long-lead time items, which will constitute part of the Work as required to meet the Project Schedule.

### 3.10.11 **PROJECT SCHEDULE TIME IMPACT ANALYSIS**

3.10.10.1 Contractor shall notify Owner when an impact may justify an extension of Contract time or adjustment of milestone dates. Said notice shall be made by Contractor in writing as soon as possible, but no later than the end of the next estimate period after the commencement of an impact or the notice for a change is given to Contractor. Not providing notice to Owner within twenty (20) calendar days after receipt will indicate Contractor’s approval of the

time charges as shown on that time statement. Future consideration of that statement will not be permitted and Contractor forfeits its right to subsequently request a time extension or time suspension unless the circumstances are such that Contractor could not reasonably have knowledge of the impact by the end of the next estimate period.

3.10.11.1 When changes are initiated or impacts are experienced, Contractor shall submit to Owner a written Time Impact Analysis describing the influence of each change or impact. A "Time Impact Analysis" is an evaluation of the effects of changes in the construction sequence, contract, plans or site conditions on Contractor's plan for constructing the Project, as represented by the schedule. The purpose of the Time Impact Analysis is to determine if the overall Project has been delayed and, if necessary, to provide Contractor and Owner a basis for making adjustments to the Contract.

3.10.11.2 A Time Impact Analysis shall consist of one or all of the steps listed below:

- (1) Establish the status of the Project before the impact using the most recent Project Schedule Update prior to the impact occurrence.
- (2) Predict the effect of the impact on the most recent Project Schedule Update prior to the impact occurrence. This requires estimating the duration of the impact and inserting the impact into the schedule update. Any other changes made to the schedule including modifications to the calendars or constraints shall be noted.
- (3) Track the effects of the impact on the schedule during its occurrence. Note any changes in sequencing and mitigation efforts.
- (4) Compare the status of the work prior to the impact (**#1 above**) to the prediction of the effect of the impact (**#2 above**), and to the status of the work during and after the effects of the impact are over (**#3 above**). Note that if an impact causes a lack of access to a portion of the Project, the effects of the impact may extend to include a reasonable period for remobilization.

3.10.11.3 The Time Impact Analysis shall be electronically submitted to Owner. If the Project Schedule is revised after the submittal of a Time Impact Analysis but prior to its approval, Contractor promptly shall indicate in writing to Owner the need for any modification to its Time Impact Analysis. One (1) copy of each Time Impact Analysis shall be submitted within fourteen (14) calendar days after the completion of an impact. Owner may require **Step 1** and **Step 2** in **Section 3.10.11.2** herein of the Time Impact Analysis be submitted at the commencement of the impact, if needed to make a decision regarding the suspension of Contract time. Approval or rejection of each Time Impact Analysis

by Owner shall be made within fourteen (14) calendar days after receipt, unless subsequent meetings and negotiations are necessary.

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

- 3.11.1 Contractor shall maintain, on Site and for Owner's use, one record copy of the Drawings, Specifications, Addenda, Change Orders and other Amendments, in good order and currently marked, to record field changes and selections made during construction, along with one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These record copies also shall be available to Design Consultant and shall be delivered to Design Consultant for submittal to Owner upon completion of the Work.
- 3.11.2 Contractor shall at all times maintain job records including, but not limited to, invoices, payment records, payroll records, daily reports, logs, diaries and job meeting minutes applicable to the Project. Contractor shall make such reports and records available for inspection by Owner, Design Consultant and/or their respective agents, during normal business hours if requested by Owner.

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

- 3.12.1 Shop Drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures and other data prepared and furnished by Contractor or its agents, manufacturers, suppliers or distributors and which illustrate and detail some portion of the Work.
- 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by Contractor to illustrate materials or equipment for some portion of the Work.
- 3.12.3 Samples are physical samples of materials, equipment or workmanship that are representative of some portion of the Work, furnished by the Contractor to Owner to assist Owner and Design Consultant in the establishment of workmanship and quality standards by which the Work will be judged.
- 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittals is to demonstrate, for those portions of the Work for which submittals are required by the Contract Documents, the way by which Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by Design Consultant is subject to the limitations of **Section 4.2.8** herein. Informational submittals, upon which Design Consultant is not expected to take responsive action, may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Design Consultant without action.
- 3.12.5 Contractor shall review for compliance with the Contract Documents, approve and submit to Design Consultant Shop Drawings, Product Data, Samples and

similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by Contractor may be returned by Design Consultant without action.

- 3.12.6 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, Contractor represents that it has determined and verified materials, field measurements and filed construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- 3.12.7 Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal and review has been approved by Design Consultant. Design Consultant shall review and return such submittals within ten (10) calendar days or within a reasonable period so as to not delay the project.
- 3.12.8 The Work shall be in accordance with approved submittals, except that Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by Design Consultant's approval of Shop Drawings, Product Data, Samples or similar submittals unless Contractor specifically has informed Design Consultant in writing of such deviation at the time of submittal and:
- (1) Design Consultant has given written approval in the specific deviation as a minor change in the Work; or
  - (2) a Change Order or Field Work Directive has been issued authorizing the deviation. Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by Design Consultant's approval thereof.
- 3.12.9 Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by Design Consultant on previous submittals. In the absence of such written notice, Design Consultant's approval of a resubmission shall not apply to such revisions.
- 3.12.10 Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services specifically are required by the Contract Documents for a portion of the Work or unless Contractor needs to provide such services in order to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment specifically are

required of Contractor by the Contract Documents, Owner and Design Consultant will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly Texas-licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Design Consultant. Owner and Design Consultant shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Design Consultant have specified to Contractor all performance and design criteria that such services must satisfy. Pursuant to this **Section 3.12.10**, Design Consultant will review, approve or take other appropriate action on submittals only for the limited purpose of checking of conformance with information given and the design concept expressed in the Contract Documents. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

### **3.13 USE OF SITE**

- 3.13.1 Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to areas permitted by law, ordinances, permits or the requirements of the Contract Documents and shall not unreasonably encumber the premises with construction equipment or other materials or equipment.
- 3.13.2 Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.
- 3.13.3 Contractor will abide by all applicable rules and regulations of Owner with respect to conduct, including smoking, parking of vehicles, security regulations and entry into adjacent facilities owned by Owner.
- 3.13.4 Contractor shall provide access to residents and businesses affected by the construction of this Project to the greatest extent possible, including providing temporary base and asphalt as needed.
- 3.13.5 Contractor shall erect and maintain on Site a Project Bulletin Board, accessible to all Contractor and Subcontractor employees, upon which Contractor shall post and maintain, throughout the Project's duration, all employment and safety information required by law and Contractor shall include information listing

Contractor's bonding and insurance agencies/providers, to include agency contact names, address and telephone numbers.

- 3.13.6 As applicable, Owner will have appropriate Temporary Bench Marks (hereafter referred to as "TBM") and a baseline (for both horizontal and vertical projects, as applicable) established. As of the date of the Notice To Proceed, it will be Contractor's responsibility to protect, preserve and reestablish (if required) the TBM and/or baseline. Construction staking and tolerances shall be in accordance with the "Manual of Practice for Land Surveying in the State of Texas Category 5".
- 3.13.7 As applicable, Contractor shall layout its work from an established baseline and TBM indicated on the drawings and shall be responsible for all measurements in connection with the layout. Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials and labor required to layout any part of the work. Contractor shall provide cut sheets to Owner's inspector at minimum seven (7) calendar days prior to construction of street and drainage work. Contractor shall establish the necessary offsets, hubs and guards marked showing control designation and offsets for SAWS Work, if present. Contractor shall provide cut sheets for improvements where Sewer profiles are provided for various phases of the project and cut sheets for Water profiles, if applicable. Contractor shall provide staking and preparation of cut sheets after receiving notice to proceed from Owner. If present, Contractor shall provide SAWS with cut sheets at minimum (7) calendar days prior to commence of SAWS work. Contractor shall be responsible for maintaining and preserving a baseline and TBM indicated on the drawings for duration of construction. If such marks are destroyed, Contractor shall replace them at its own expense. At the end of construction of the Project, Contractor shall provide Owner a grade certificate prepared by a Registered Professional Land Surveyor. This certificate shall state that the infrastructure is constructed in accordance to the construction documents or as approved by Owner and the Engineer of Record, which is noted on the record plan set.

### **3.14 CUTTING AND PATCHING**

- 3.14.1 Contractor shall be responsible for all cutting, fitting or patching required to complete the Work or to make its parts fit together properly.
- 3.14.2 Contractor shall not damage or endanger a portion of the Work or a fully or partially completed construction by either Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. Contractor shall not cut or otherwise alter such construction by Owner or a separate contractor except with written consent of Owner and, if Owner so designates, of such separate contractor and said consent shall not be unreasonably withheld. Contractor unreasonably shall not withhold from Owner or a Owner's separate contractor Contractor's consent to cutting or otherwise altering the Work.

- 3.14.3 Any part of the Work damaged by Contractor, either during installation or prior to Substantial Completion of the Work (or such earlier date established in **Section 9.9** herein), shall be repaired by Contractor so as to be equal in quality, appearance, serviceability and other respects to an undamaged item or part of the Work. Where this repair cannot fully be accomplished, a damaged item or part shall be replaced by Contractor.

### **3.15 CLEANING UP**

- 3.15.1 During the progress of the Work, Contractor shall keep the Project Site and surrounding area including, but not limited to, creeks, drainage channels, easements and private property free from accumulations of waste materials, rubbish and other debris resulting from the Work. As applicable, Contractor shall clean, sweep, mop, brush and polish, as appropriate, the interior of the improvements and/or renovated areas including, but not limited to, any floors, carpeting, ducts, fixtures and ventilation units operated during construction, and shall clean exterior gutters, drainage, walkways, driveways and roofs of debris. If Contractor fails to clean up as provided in the Contract Documents, Owner may elect to do so and all costs incurred by Owner shall be paid by Contractor.

- 3.15.2 Prior to Substantial Completion of the Work, Contractor shall remove all waste materials, rubbish and debris from and about the premises, as well as all tools, appliances, construction equipment and machinery and surplus materials, and shall leave the Project Site clean and ready for occupancy by Owner. As applicable, Contractor shall clean, sweep, mop, brush and polish, to Owner's satisfaction, the interior of the improvements and/or renovated areas including, but not limited to, any floors, carpeting, ducts, fixtures and ventilation units operated during construction, and shall clean exterior gutters, drainage, walkways, driveways and roofs of debris. Contractor shall restore to their original condition those portions of the Site not designated for alteration by the Contract Documents. If Contractor fails to clean up the premises as provided in the Contract Documents, Owner may elect to do so and all costs incurred by Owner shall be paid by Contractor.

**3.16 ACCESS TO WORK.** Contractor shall provide Owner and Design Consultant access to Work in preparation and in progress, wherever located.

**3.17 PATENT FEES AND ROYALTIES.** Contractor shall pay all license fees and royalties and assume all costs incident to the use of the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of Owner its use is subject to patent rights or copyrights calling

for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

### **3.18 INDEMNITY PROVISIONS**

- 3.18.1 Contractor covenants and agrees to **HOLD HARMLESS AND UNCONDITIONALLY INDEMNIFY, PROTECT AND DEFEND** Owner, its elected officials, employees, officers, directors, volunteers and representatives of Owner, individually or collectively, from and against any and all third party claims, demands, actions, liabilities, liens, losses, damages, costs and expenses, of every kind and character whatsoever, including without limitation by enumeration the amount of any judgment, penalty, interest, court costs and reasonable legal fees incurred in connection with the same, or the defense thereof, for or in connection with loss of life or personal injury (including employees of Contractor and of Owner) damage to property (other than the Work itself and including property of Contractor and of Owner), but only to the extent caused by the negligent acts or omissions of, or incident to or in connection with or resulting from the negligent acts or omissions of, Contractor, its agents, servants, employees or its Subcontractors and their agents, servants and employees, in connection with the Work to be performed, services to be rendered or materials to be furnished under this Contract. Notwithstanding anything to the contrary included herein, in no event shall Contractor be liable for claims arising out of accidents resulting from the sole negligence of Owner, all without however, waiving any governmental immunity available to Owner under Texas Law and without waiving any defenses of the parties under Texas Law.
- 3.18.2 In addition to the above, Contractor also covenants and agrees to **HOLD HARMLESS AND UNCONDITIONALLY INDEMNIFY, PROTECT AND DEFEND** Owner, its elected officials, employees, officers, directors, volunteers and representatives of Owner, individually or collectively, from and against any and all third party claims, demands, actions, liabilities, liens, losses, damages, costs and expenses of every kind and character whatsoever, including, without limitation by enumeration, the amount of any judgment, penalty, interest, court costs and reasonable legal fees incurred in connection with the same, or the defense thereof, for or in connection with loss of life or personal injury (including employees of Contractor and of Owner) damage to property (other than the Work itself and including property of Contractor and of Owner), but only to the extent caused by the intentional or deliberate misconduct, grossly negligent, willful acts or omissions of Contractor, its agents, servants, employees, or its Subcontractors and their agents, servants and employees, or in connection with the Work to be performed, services to be rendered or materials to be furnished under this Contract, including but not limited to violations of any statute, regulation, ordinance or provision of this Contract. Notwithstanding anything to the contrary included herein, in no event shall Contractor be liable for claims arising out of accidents resulting from the sole negligence of Owner, all without however, waiving any governmental immunity available to Owner under Texas Law and without waiving any defenses of the parties under Texas Law.

3.18.3 **INTELLECTUAL PROPERTY INDEMNIFICATION.** Contractor shall protect, indemnify, and defend and/or handle at its own cost and expense any claim or action against Owner, its elected officials, employees, officers, directors, volunteers and representatives of Owner, individually or collectively, for infringement of any United States Patent, copyright or similar property right including, but not limited to, misappropriation of trade secrets and any infringement by Contractor and its employee or its Subcontractors and their agents, servants and employees, based on any deliverable or any other materials furnished hereunder by Contractor and used by either Owner or Contractor within the scope of this Agreement (unless said infringement results directly from Contractor's compliance with City's written standards or specifications). Contractor does not warrant against infringement by reason of Owner's or Design Consultant's design of articles or their use in combination with other materials or in the operation of any process. Contractor shall have the sole right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise, unless otherwise mutually agreed upon, expressed in writing and signed by the parties hereto. Contractor agrees to consult with Owner's City Attorney during such defense or negotiations and make good faith efforts to avoid any position adverse to the interest of Owner. Owner will make available to Contractor any deliverables and/or works made for hire by Contractor necessary to the defense of Contractor against any claim of infringement for the duration of Contractor's legal defense.

3.18.4 If such infringement claim or action has occurred or, in Contractor's judgment, is likely to occur, Owner shall allow Contractor, at Contractor's option and expense, (unless such infringement results directly from Contractor's compliance with Owners written standards or specifications or by reason of Owner's or Design Consultants' design of articles or their use in combination with other materials or in the operation of any process for which the City shall be liable) to elect to:

- (1) procure for Owner the right to continue using said deliverable and/or materials;
- (2) modify such deliverable and/or materials to become non-infringing (provided that such modification does not adversely affect Owner's intended use of the deliverable and/or materials as contemplated hereunder);
- (3) replace said deliverable and/or materials with an equally suitable, compatible and functionally equivalent non-infringing deliverable and/or materials at no additional charge to Owner; or
- (4) if none of the foregoing alternatives is reasonably available to Contractor, upon written request, Owner shall return the deliverable and/or materials in question to Contractor and Contractor shall refund all monies paid by Owner, with respect to such deliverable and/or materials, and accept return of same. If any such cure provided for in this **Section 3.18** shall fail to satisfy the third-party claimant, these actions shall not relieve

Contractor from its defense and indemnity obligations set forth in this **Section 3.18**.

- 3.18.5 The indemnification obligations under this **Section 3.18** shall not be limited in any way by the limits of any insurance coverage or any limitation on the amount or type of damages, compensation or benefits payable by, for or to Contractor or any Subcontractor, supplier or any other individual or entity under any insurance policy, workers' compensation acts, disability benefit acts or other employee benefits acts.
- 3.18.6 **WORKMEN SAFETY.** The Indemnification hereunder shall include, without limiting the generality of the foregoing, liability which could arise to Owner, its agents, consultants and/or representatives or Design Consultant pursuant to State statutes for the safety of workmen and, in addition, all Federal statutes and rules existing there under for protection, occupational safety and health to workmen. It is agreed that the primary obligation of Contractor is to comply with these statutes in the performance by Contractor of the Work and that the obligations of Owner, its agents, consultants and representatives under said statutes are secondary to that of Contractor.
- 3.18.7 **OTHER PROVISIONS REGARDING INDEMNITY**
- 3.18.7.1 The provisions of this Indemnification solely are for the benefit of the Parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.
- 3.18.7.2 The indemnities contained herein shall survive the termination of this Contract for any reason whatsoever.
- 3.18.7.3 Contractor shall, within twenty-one (21) calendar days, advise Owner in writing of any potential or actual claim or demand against Owner or Contractor, as the case may be, known to Contractor and related to or arising out of Contractor's activities under this Contract and Contractor shall see to the investigation and defense of such claim or demand at Contractor's sole cost. Owner shall have the right, at its option and at its own expense, to participate in such defense without relieving Contractor of any of its obligations under this **Section 3.18**.
- 3.18.8 **DEFENSE COUNSEL.** Owner shall have the right to approve defense counsel, of which approval shall not be unreasonably withheld, to be retained by Contractor in fulfilling its obligation hereunder to defend and indemnify Owner, unless such right is expressly waived by Owner in writing. Contractor shall retain Owner-approved defense counsel within ten (10) calendar days of Owner's written notice that Owner is invoking its right to Indemnification under this Contract. If Contractor fails to retain counsel within such time period, Owner shall have the right to retain defense counsel on its own behalf and Contractor shall be liable for

all costs incurred by Owner. Owner also shall have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

**3.19 REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants the following to Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work, that Contractor:

- 3.19.1 is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
- 3.19.2 is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
- 3.19.3 is authorized to do business in the State of Texas and properly is licensed by all necessary governmental, public and quasi-public authorities having jurisdiction over it, the Work and the site of the Project;
- 3.19.4 is acting within its duly authorized powers to execute this Contract and execute the performance and obligations thereof; and
- 3.19.5 had directed its duly authorized representative(s) to visit the Site of the Work, familiarize itself with the local conditions under which the Work is to be performed and correlated its observations with the requirements of the Contract Documents.

**3.20 BUSINESS STANDARDS.** Contractor, in performing its obligations under this Contract, shall establish and maintain appropriate business standards, procedures and controls, including those necessary to avoid any real or apparent impropriety or adverse impact on the interest of Owner or affiliates. Contractor shall review with Owner, at a reasonable frequency during the performance of the Work hereunder, such business standards and procedures including, without limitation, those related to the activities of Contractor's employees, Subcontractors and agents in their relations with Owner's employees, consultants, agents, representatives, vendors, Subcontractors, other third parties and those relating to the placement and administration of purchase orders and subcontracts.

#### **ARTICLE IV. ADMINISTRATION OF THE CONTRACT**

**4.1 DESIGN CONSULTANT.** A Design Consultant is a person registered as an Architect pursuant to Tex. Occupations Code Ann., Chapter 1051, as a Landscape Architect pursuant to Texas Occupations Code, Chapter 1052, and/or a person licensed as a professional Engineer pursuant to Texas Occupations Code, Chapter 1001, or a firm employed by Owner to provide professional architectural or engineering services and exercising overall

responsibility for the design of a Project or a significant portion thereof, and performing certain contract administration responsibilities as set forth in its Contract and these General Conditions. If the employment of a Design Consultant is terminated, Owner shall employ a new Design Consultant whose status under the Contract Documents shall be that of the former Design Consultant.

## **4.2 ROLES IN ADMINISTRATION OF THE CONTRACT**

4.2.1 Owner and Design Consultant will provide administration of the Contract, as described in the Contract Documents, and Design Consultant will be Owner's representative:

- (1) during construction;
- (2) until final payment is due; and
- (3) with Owner's concurrence, from time to time during the one-year period for correction of Work described in **Article XII** herein.

Design Consultant only will have authority to act on behalf of Owner to the extent provided in the Contract Documents, unless otherwise modified in writing by Owner in accordance with other provisions of the Contract Documents.

4.2.2 Owner's instruction to Contractor may be issued through Design Consultant and Owner reserves the right to issue instructions directly to Contractor or through other designated Owner representatives. Contractor understands that Owner may modify the authority of such Design Consultant as provided in the terms of its contractual relationship with Design Consultant, and Owner shall, in such event, be vested with powers formerly exercised by such Design Consultant, provided written notice of such modification immediately shall be served on Contractor. Nothing herein shall authorize independent agreements between Contractor and Design Consultant, nor shall Design Consultant be deemed to have a legal relationship with Contractor.

4.2.3 Neither Design Consultant nor Owner will have control over, charge of nor be responsible for the construction means, methods or techniques, or for the safety precautions, quality control program and other programs in connection with the Work, since these solely are Contractor's rights and responsibilities under the Contract Documents. Sequencing and procedures will be coordinated and agreed upon by Owner, Design Consultant and Contractor.

4.2.4 Design Consultant will not be responsible for Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Design Consultant will not have control over, charge of and will not be responsible for acts or omissions of Contractor, Subcontractor, their respective agents, employees or any other persons or entities performing portions of the Work.

- 4.2.5 Owner and Contractor shall endeavor to communicate with each other directly, through Design Consultant and/or through the ODR about matters arising out of or relating to the Contract. Communications by and with Design Consultant's consultants shall be through Design Consultant. Communications by Owner and Design Consultant with Contractor's employees Subcontractors and material suppliers shall be through Contractor. All communications by and with Owner's separate contractors shall be through Owner.
- 4.2.6 Design Consultant will review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Design Consultant will perform these reviews in a timely fashion so as to not delay the Work. Design Consultant promptly will respond to submittals such as Shop Drawings, Product Data and Samples pursuant to the procedures set forth in the Project Specifications. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of equipment or systems, all of which remain the responsibility of Contractor as required by the Contract Documents. Design Consultant's review of Contractor's submittals shall not relieve the Contractor of the obligations under **Sections 3.3, 3.5 and 3.12** herein. Design Consultant's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by Design Consultant, any construction means, methods, techniques, sequences or procedures. Design Consultant's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- 4.2.7 Upon written request of Owner or Contractor, Design Consultant will issue its interpretation of the requirements of the plans and specifications. Design Consultant's response to such requests will be made in writing within a time limit agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of Design Consultant shall be furnished in compliance with this **Section 4.2**, then no delay will be recognized on account of any failure by Design Consultant to furnish such interpretations except for actual substantiated delays, for which Contractor is not responsible, occurring more than fifteen (15) calendar days after written request is made for the interpretations.
- 4.2.8 Interpretations and decisions of Design Consultant will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings.
- 4.2.9 Design Consultant's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents and not expressly overruled in writing by Owner.

### **4.3 CLAIMS AND DISPUTES**

- 4.3.1 **DEFINITION.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, an adjustment or interpretation of Contract terms, payment of money, extension of time or other relief, with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between Owner and Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. Except as contemplated by **Section 8.2** herein, every Claim of Contractor, whether for additional compensation, additional time or other relief including, but not limited to, claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind Contractor by his/her signature) of Contractor, verifying the truth and accuracy of the Claim. The responsibility to substantiate a Claim shall rest with the party making the Claim.
- 4.3.2 **TIME LIMIT ON CLAIMS.** Except for those Claims resulting from unusually severe weather, as addressed in **Section 4.3.6** herein, Contractor Claims must be initiated within fifteen (15) calendar days after occurrence of the event giving rise to such Claim. Claims by Contractor must be submitted by written notice to both Owner and Design Consultant. Claims by Owner must be submitted by written notice to Contractor. Failure by Contractor to submit written notice of the claim within fifteen (15) calendar days shall constitute a waiver of such claim.
- 4.3.3 **CONTINUING CONTRACT PERFORMANCE.** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in **Sections 4.5.1, Section 9.7.1** and **Article 14** herein, Contractor shall proceed diligently with performance of the Contract and Owner shall continue to make payments in accordance with the Contract Documents.
- 4.3.4 **CLAIMS FOR CONCEALED OR UNKNOWN CONDITIONS.** If conditions are encountered at the Site which either are subsurface or are otherwise concealed physical conditions which were not known to Contractor and which differ materially from those indicated in the Contract Documents or in the reports of investigations and tests of subsurface and latent physical conditions provided by Owner to Contractor prior to the preparation by Contractor of its Bid, as referred to above, or are unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents in the general vicinity of the Project site, then Contractor promptly shall notify Owner and Design Consultant of such conditions before conditions are disturbed, and in no event more than three (3) workdays after first observation of the conditions. Upon notification by Contractor, Design Consultant promptly will investigate such conditions and report its findings to Owner. If Owner and Contractor cannot agree on an adjustment to the Contract Sum or Contract Time, the adjustment shall be subject to dispute resolution pursuant to **Section 4.5** herein.
- 4.3.5 **CLAIMS FOR ADDITIONAL COST.** If Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided in this **Section 4.3** shall

be given and accepted by Owner before proceeding to execute the Work, provided that prior notice is not required for Claims relating to an emergency endangering life or property. Contractor shall file a Claim in accordance with this **Section 4.3** if Contractor believes additional cost is involved for reasons including, but not limited to:

- (1) a written interpretation from Design Consultant;
- (2) an order by Owner to stop the Work where Contractor was not at fault;
- (3) a written order for a minor change in the Work issued by Design Consultant;
- (4) failure of payment by Owner;
- (5) termination of the Contract by Owner for convenience;
- (6) Owner's suspension; or
- (7) other reasonable grounds.

#### 4.3.6 CLAIMS FOR ADDITIONAL TIME

4.3.6.1 If Contractor wishes to make Claim for an increase in the Contract Time, written notice, as required in this **Section 4.3**, shall be given. Contractor's Claim shall include an estimate of probable impact of delay on progress of the Work in accordance with **Section 3.10.11** herein. In the case of a continuing delay, only one Claim is necessary.

4.3.6.2 Contractor shall be entitled to an extension of the Contract Time for delays or disruptions due to unusually severe weather in excess of that normally experienced at the job site, as determined from climatological data set forth by National Weather Service and which affects the Project's critical path. Contractor shall bear the entire economic risk of all weather delays and disruptions. Contractor shall not be entitled to any increase in the Contract Sum by reason of such delays or disruptions. With regard to Vertical projects with Owner, requests for an extension of time, pursuant to this **Section 4.3.6**, shall be submitted to Owner and Design Consultant not later than the fifteenth (15<sup>th</sup>) calendar day of the month following the month during which the delays or disruptions occurred and shall include documentation and all details reasonably available, demonstrating the nature and duration of the delays or disruptions and their effect on the critical path of the Schedule. With regard to Horizontal projects with Owner, upon Contractor reaching Substantial Completion, Owner and Contractor will look back at the entire duration of the calendar day Project and review the totality of what Contractor claims were unusually severe weather disruptions. If the Project was delayed or disrupted due to unusually severe weather in excess of that normally experienced over the

entire duration of the Project, Contractor may make a Claim for an extension of the Contract Time for delays or disruptions due to unusually severe weather in excess of that normally experienced at the job site, as determined from climatological data set forth by National Weather Service and which affects the Project's critical path. Any time extension granted to Contractor for either Vertical or Horizontal projects under **Section 4.3.6** shall be non-compensatory.

- 4.3.7 **INJURY OR DAMAGE TO PERSON OR PROPERTY.** If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party or an act or omission of others for whose acts such other party legally is responsible (including, with respect to Owner, the acts or omissions of Owner's separate contractors), written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding three (3) calendar days after the discovery of the injury or damage. The written notice shall provide sufficient detail to enable the other party to investigate the injury or damage.
- 4.3.8 **CHANGE IN UNIT PRICES.** As applicable, if unit prices are stated in the Contract Documents or subsequently agreed upon by Owner and Contractor and if quantities originally contemplated are materially changed in a proposed Change Order or Field Work Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to Owner or Contractor, the applicable unit prices shall be equitably adjusted.
- 4.3.9 **CLAIMS FOR CONSEQUENTIAL DAMAGES.** Except as otherwise provided in this Contract, in calculating the amount of any Claim or any measure of damages for breach of contract (such provision to survive any termination following such breach), the following standards will apply both to Claims by Contractor and to Claims by Owner:
- 4.3.9.1 No consequential, indirect, incidental, punitive or exemplary damages will be allowed, whether or not foreseeable, regardless of whether based on breach of contract, tort (including negligence), indemnity, strict liability or other bases of liability.
- 4.3.9.2 No recovery shall be based on a comparison of planned expenditures to total actual expenditures, on estimated losses of labor efficiency, on a comparison of planned manloading to actual manloading or on any other similar analysis that is used to show total cost or other damages.
- 4.3.9.3 Damages are limited to extra costs specifically shown to directly have been caused by a proven wrong for which the other party is claimed to be responsible.
- 4.3.9.4 The maximum amount of any recovery for delay, to the extent damages for delay are not otherwise disallowed by the terms of the Contract Documents, shall be as is provided in **Article VIII** herein.

4.3.9.5 No damages will be allowed for home office overhead or other home office charges or any Eichleay formula calculation, except or unless as expressly authorized by the Contract Documents.

4.3.9.6 No profit will be allowed on any damage Claim, except or unless as expressly authorized by the Contract Documents.

4.3.10 **SUBCONTRACTOR PASS-THROUGH CLAIMS.** In the event that any Subcontractor of Contractor asserts a Claim to Contractor that Contractor seeks to pass through to Owner under the Contract Documents, any entitlement to submit and assert the Claim as to Owner shall be subject to:

4.3.10.1 the requirements of **Section 4.3** herein of these General Conditions; and

4.3.10.2 the following additional three (3) requirements listed below, all three of said additional requirements shall be conditions precedent to the entitlement of Contractor to seek and assert such Claim against Owner:

(1) Contractor shall:

(a) have direct legal liability as a matter of contract, common law, or statutory law to Subcontractor for the claim that Subcontractor is asserting; or

(b) have entered into a written liquidating agreement with Subcontractor, prior to the Claim's occurrence, under which Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such Claim against Owner under said Contract and for paying to Subcontractor any amount that may be recovered, less Contractor's included markup (subject to the limits in the Contract Documents for any markup). The relationship, liability or responsibilities shall be identified in writing by Contractor to Owner at the time such Claim is submitted to Owner and a copy of any liquidating agreement shall be included by Contractor in the Claim submittal materials.

(2) Contractor shall have reviewed the Claim of the Subcontractor prior to its submittal to Owner and independently shall have evaluated such Claim in good faith to determine the extent to which the Claim is believed in good faith to be valid. Contractor shall inform Owner that Contractor has made a review, evaluation, and determination that the Claim is made in good faith and is believed to be valid.

- (3) Subcontractor making the Claim to Contractor shall certify to both Contractor and Owner that it has compiled, reviewed and evaluated the merits of such Claim and that the Claim is believed in good faith by Subcontractor to be valid. A copy of the certification by Subcontractor shall be included by Contractor in the Claim submittal materials.

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

4.3.10.4 Receipt and review of a Claim by Owner under this **Section 4.3** shall not be construed as a waiver of any defenses to the Claim available to Owner under the Contract Documents or at law.

4.3.11 **OWNER'S RIGHT TO ORDER ACCELERATION AND TO DENY CLAIMED AND APPROPRIATE TIME EXTENSIONS, IN WHOLE OR IN PART.** Contractor acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner. The following provisions, therefore, will apply:

4.3.11.1 If Contractor falls behind the approved construction schedule for whatever reason, Owner shall have the right, in Owner's sole discretion, to order Contractor to develop a schedule recovery plan to alter its work sequences or to otherwise accelerate its progress in such a manner as to achieve Substantial Completion on or before the Contract Time completion date or such other date as Owner reasonably may direct. Upon receipt, Contractor shall take any and all action necessary to comply with Owner's order. In such event, any possible right, if any, of Contractor to additional compensation for any acceleration shall be subject to the terms of this **Section 4.3.11**.

4.3.11.2 In the event Owner agrees that Contractor is entitled to an extension of Contract Time and Contractor properly has initiated a Claim for a time extension in accordance with **Section 4.3(a)** herein, Owner shall have the right, in Owner's sole discretion, to deny any portion of Contractor's Claim for an extension of Contract Time and order Contractor to exercise its commercially reasonable efforts to achieve Substantial Completion on or before the date that would have been required, but for the existence of the event giving rise to the Claim, by giving written notice to Contractor provided within fourteen (14) calendar days after receipt of Contractor's Claim. If Owner denies Contractor's claim for an extension of Contract Time under this **Section 4.3.11**, either in whole or in part, Contractor shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then-existing Scheduled

Completion Date. If, after initiating good faith acceleration efforts and it is shown that, through no fault of Contractor, Contractor fell behind on the approved construction schedule and Contractor still is unable to achieve Substantial Completion within the originally scheduled Contract Time, Owner will not be entitled to liquidated damages. Nothing in this **Section 4.3.11.2** shall prohibit Contractor from filing a Claim for an extension of time Contractor feels it may be owed.

4.3.11.3 If Owner orders Contractor to accelerate the Work under **Section 4.3.11.2** herein, and Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents for an amount of time that would have justified approval by Owner if not for the need and right to complete the Project within the stipulated period, Contractor may initiate a Claim for schedule recovery or acceleration costs, pursuant to **Section 4.3.1** herein. Any resulting Claim for these costs properly initiated by Contractor under **Section 4.3.1** herein shall be limited to those reasonable and documented direct costs of labor, materials, equipment and supervision solely and directly attributable to the actual recovery or acceleration activity necessary for Contractor to bring the Work back within the then existing approved construction schedule. These direct costs of Contractor include, but are not limited to, the premium portion of overtime pay for additional crew, shift, or equipment costs, if requested in advance by Contractor and approved in writing by Owner. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance, profit and field overhead, not to exceed the markups permitted by this Contract, will be allowed on the claimed costs. **NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING, BUT NOT LIMITED TO, HOME OFFICE OVERHEAD) OR ANY OTHER COSTS WILL BE ALLOWED ON ANY ACCELERATION CLAIM.** Owner shall not be liable for any costs related to an acceleration claim other than those described in this **Section 4.3.11**.

4.3.12 **NO WAIVER OF GOVERNMENTAL IMMUNITY.** Nothing in this contract shall be construed to waive Owner's Governmental Immunity from a lawsuit, which Immunity is expressly retained to the extent it is not clearly and unambiguously waived by State law.

#### **4.4 RESOLUTION OF CLAIMS AND DISPUTES**

4.4.1 Claims by Contractor against Owner and Claims by Owner against Contractor, including those alleging an error or omission by Design Consultant but excluding those arising under **Section 10.3** and **Section 10.5** herein, shall be referred initially to Design Consultant for consideration and recommendation to Owner.

4.4.2 An initial recommendation by Design Consultant shall be required as a condition precedent to mediation or litigation of all Claims by the parties arising prior to the date final payment is due, unless thirty (30) calendar days have passed after the

Claim has been referred to Design Consultant with no recommendation having been rendered by Design Consultant.

4.4.3 Design Consultant will review Claims and, within ten (10) work days of receipt of a Claim, take one or more of the following actions:

- (1) request additional supporting data from the party making the Claim;
- (2) issue an initial recommendation;
- (3) suggest a compromise; or
- (4) advise the parties that Design Consultant is unable to issue an initial Recommendation, due to a lack of sufficient information or conflict of interest.

4.4.4 Following receipt of Design Consultant's initial recommendation regarding a Claim, Owner and Contractor shall attempt to reach agreement as to any adjustment to the Contract Sum and/or Contract Time. If no agreement is reached, either party may request mediation of the dispute, pursuant to **Section 4.5** herein.

4.4.5 If Design Consultant requests either or any party to provide a response to a Claim or to furnish additional supporting data, such requested party shall provide a response or the requested supporting data to Design Consultant, advise Design Consultant when the response or supporting data will be furnished or advise Design Consultant that no response of supporting data will be furnished.

4.4.6 With receipt of all information requested by Design Consultant, Design Consultant shall review the Claim and all received information within ten (10) calendar days of receipt of the information and shall take one of the following actions:

- (1) issue a recommendation;
- (2) suggest a compromise; or
- (3) advise the parties Design Consultant is unable to issue a recommendation due to lack information or conflict of interest.

4.4.7 Upon Design Consultant's action or inaction, the two parties may agree to accept recommendations made by either party or may request mediation of the dispute pursuant to **Section 4.5** herein.

4.4.8 **WAIVER OF LIEN.** It is understood that, by virtue of this Contract, no mechanic, contractor, material man, artisan or laborer, whether skilled or unskilled, ever shall, in any manner, have a claim or acquire any lien upon the building or any of

the improvements of whatever nature or kind so erected or to be erected by virtue of this Contract, nor upon any of the land upon which said building or any of the improvements are so erected, built or situated.

#### **4.5 ALTERNATIVE DISPUTE RESOLUTION**

4.5.1 **CONTINUATION OF WORK PENDING DISPUTE RESOLUTION.** Each party is required to continue to perform its obligations under this Contract pending the final resolution of any dispute arising out of or relating to this Contract, unless it would be impossible or impracticable under the circumstances then present.

4.5.2 **REQUIREMENT FOR SENIOR LEVEL NEGOTIATIONS.** Before invoking mediation or any other alternative dispute process set forth herein, the parties to this Contract agree that they first shall try to resolve any dispute arising out of or related to this Contract through discussions directly between those senior management representatives within their respective organizations who have overall managerial responsibility for similar projects. Both Owner and Contractor agree that this step shall be a condition precedent to use of any other alternative dispute resolution process. If the parties' senior management representatives cannot resolve the dispute within thirty (30) calendar days after a party delivers a written notice of such dispute to the other, then the parties shall proceed with the alternative dispute resolution process contained in **Section 4.5** herein, including mediation and/or litigation. All negotiations pursuant to this **Section 4.5** are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

4.5.3 **MEDIATION.** In the event that Owner and/or Contractor contend that the other has committed a material breach of this Contract, or the two parties can not reach a resolution of a claim or dispute pursuant to **Section 4.4** herein, as a condition preceding to filing a lawsuit, either party shall request mediation of the dispute with the following requirements:

4.5.3.1 Request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) calendar days following the date of the request, except upon agreement of both parties.

4.5.3.2 In the event Owner and Contractor are unable to agree to a date for the mediation or to the identity of the mediator(s) within thirty (30) calendar days following the date of the request for mediation, all conditions precedent in this **Section 4.5** shall be deemed to have occurred.

4.5.3.3 The parties shall share the mediator's fee and any mediation filing fees equally. Venue for any mediation or lawsuit arising under this Contract shall be in Bexar County, Texas. Any agreement reached in mediation shall be enforceable as a settlement agreement in any court having

jurisdiction thereof. No provision of this Contract shall waive any immunity or defense. No provision of this Contract is consent to a suit.

**4.6 INTERNET-BASED PROJECT MANAGEMENT SYSTEMS.** At its option, Owner may administer its design and construction management through an Internet-based Project Management system. In such cases, Contractor shall conduct communication through this medium and perform all Project-related functions utilizing this management system, to include all correspondences, submittals, Requests for Information, vouchers, payment requests and processing, Amendments, Change Orders and other administrative activities. When such a management system is employed, Owner shall administer the software, provide training to Project Team Members and shall make the software accessible via the Internet to all Project Team Members.

## **ARTICLE V. SUBCONTRACTORS**

### **5.1 DEFINITION**

A Subcontractor is a person or entity that has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of Subcontractor. The term "Subcontractor" does not include a separate contractor or Subcontractor of a separate contractor.

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

5.2.1 Contractor shall, prior to entering into an agreement with such Subcontractor, notify Owner in writing of the names of all proposed first-tier Subcontractors for the Work.

5.2.2 Contractor shall not employ any Subcontractor or other person or organization (including those who are to furnish the principal items of materials or equipment), whether initially or as a substitute, against whom Owner may have reasonable objection. A Subcontractor or other person or organization identified in writing to Owner, prior to the Notice of Award and not objected to in writing by Owner prior to the Notice of Award, will be deemed acceptable to Owner. Acceptance of any Subcontractor, other person or organization by Owner shall not constitute a waiver of any right of Owner to reject defective Work. If Owner, after due investigation, has reasonable objection to any Subcontractor, other person or organization proposed by Contractor after the Notice of Award, Contractor will be required to submit an acceptable substitute. Contractor shall not be required to employ any Subcontractor, other person or organization against whom Contractor has reasonable objection.

5.2.3 Contractor fully shall be responsible to Owner for all acts and omissions of its Subcontractors, persons and organizations directly or indirectly employed by them and persons and organizations for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons

directly employed by Contractor. Nothing in the Contract Documents shall create any contractual relationship between Owner and any Subcontractor or other person or organization having a direct contract with Contractor, nor shall it create any obligation on the part of Owner to pay or to see to the payment of any moneys due any Subcontractor or other person or organization, except as may otherwise be required by law. Owner may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to Contractor on account of specific Work done.

- 5.2.4 The divisions and sections of the Specifications, as well as the identifications of any Drawings, shall not control Contractor in dividing the Work among Subcontractors or delineating the Work to be performed by any specific trade.
- 5.2.5 All Work performed for Contractor by a Subcontractor will be performed pursuant to an appropriate agreement between Contractor and Subcontractor which specifically binds Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of Owner.
- 5.2.6 **SBEDA/DBE REPORTING AND AUDITING.** During the term of the contract, Contractor must report the actual payments to all SBEDA or DBE (as applicable) Subcontractors and Suppliers in the time intervals and format prescribed by Owner. Owner reserves the right, at any time during the term of this Contract, to request additional information, documentation or verification of payments made to such Subcontractors and suppliers in connection with this Contract. Verification of amounts being reported may take the form of requesting copies of canceled checks paid to SBEDA or DBE Subcontractors and suppliers and/or confirmation inquiries directly to the SBEDA or DBE participants. Proof of payments, such as copies of canceled checks, properly must identify the Project name or Project number to substantiate a SBEDA or DBE payment for the Project.
- 5.2.7 **SMALL BUSINESS SUBCONTRACTOR SUBSTITUTIONS.** Reference SBEDA or DBE Requirements in Supplementary Conditions for Substitution of Subcontractors. Failure to follow such procedures is an event of default under this Contract and may be grounds for termination.

### 5.3 SUB-CONTRACTUAL RELATIONS

- 5.3.1 By appropriate agreement, written where legally required for validity, Contractor shall require each Subcontractor, to the extent of the Work to be performed by Subcontractor, to be bound to the Contractor by terms of the Contract Documents and to assume toward Contractor all the obligations and responsibilities, including the responsibility for safety of Subcontractor's Work and workers, which Contractor, by these Documents, assumes toward Owner and Design Consultant. Each Subcontractor agreement shall preserve and protect the rights of Owner and Design Consultant under the Contract Documents, with respect to the Work to be performed by Subcontractor, so that subcontracting thereof will not prejudice such rights. Where appropriate, Contractor shall require each Subcontractor to enter into similar agreements with Sub-Subcontractors. Contractor shall make available

to each proposed Subcontractor, prior to the execution of all Subcontractor agreement(s), copies of the Contract Documents to which Subcontractor(s) will be bound. Subcontractors similarly will make copies of applicable portions of such documents available to their respective proposed Sub-Subcontractors.

#### **5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS**

Each Subcontractor agreement for a portion of the Work assigned by Contractor to Owner shall provided that:

- 5.4.1 assignment is effective only after termination of the Contract by Owner and only for those Subcontractor agreements which Owner accepts by notifying Subcontractor and Contractor in writing; and
- 5.4.2 assignment is subject to the prior rights of the Surety, if any, obligated under bond relating to the Contract.
- 5.4.3 upon any such assignment, if the Work has been suspended for more than thirty (30) calendar days, Subcontractor's compensation equally shall be adjusted for increase in cost resulting from the suspension.

### **ARTICLE VI. CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTS**

#### **6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS**

- 6.1.1 Owner reserves the right to perform construction or operations related to the Project with Owner's own forces and to award separate contracts in connection with other portions of the Project or other construction or operations on the Site under General Conditions of the Contract identical or substantially similar to these. If Contractor claims that a delay or additional cost is involved, due to such action by Owner, Contractor shall make a Claim as provided in **Section 4.3** herein.
- 6.1.2 When separate contracts are awarded for different portions of the Project or for other construction or operations on the Project Site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor that executes each separate Owner-Contractor Agreement.
- 6.1.3 Owner shall provide for coordination of the activities of Owner's own forces and of each separate contractor with the Work of Contractor and Contractor fully shall cooperate with said coordination. Contractor shall participate with other separate contractors and Owner in reviewing all construction schedules when directed by Owner to do so. Contractor shall make any revisions to its construction schedule deemed necessary after said joint review and mutual agreement. The revised construction schedules then shall constitute the schedules to be used by Contractor, separate contractors and Owner until subsequently revised.

6.1.4 Unless otherwise provided in the Contract Documents, when Owner and Owner's own forces perform construction or operation related to the Project, Owner shall be subject to the same obligations and to have the same rights that apply to Contractor under these General Conditions and the Contract Documents.

## **6.2 MUTUAL RESPONSIBILITY**

6.2.1 Contractor shall afford Owner and Owner's separate contractor(s) reasonable opportunity for the introduction and storage of materials and equipment, the performance of their activities and the coordination of Contractor's construction and operations with theirs, as required by the Contract Documents.

6.2.2 If part of Contractor's Work depends, for proper execution or results, upon the construction or operations by Owner or a separate contractor, Contractor shall, prior to proceeding with that portion of the Work, promptly report to Owner apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of Contractor to so report shall constitute an acknowledgment that Owner's separate contractor's completed or partially completed construction is fit and proper to receive Contractor's Work, except as to defects not then reasonably discoverable.

6.2.3 Owner shall be reimbursed by Contractor for costs incurred by Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of Contractor. Owner shall be responsible to Contractor for costs incurred by Contractor because of delays, improperly timed activities and damage to the Work or defective construction of Owner's separate contractor(s).

6.2.4 Contractor promptly shall remedy any damage wrongfully caused by Contractor or its Subcontractor(s) to any completed or partially completed construction or to property of Owner or Owner's separate contractor(s), as provided in **Section 10.2.5** herein.

6.2.5 Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for Contractor in **Section 3.14** herein.

**6.3 OWNER'S RIGHT TO CLEAN UP.** If a dispute arises among or between Contractor, Owner's separate contractor(s) and Owner, as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, Owner may clean up and those costs will be allocated amongst those parties responsible.

## **ARTICLE VII. CHANGES IN THE WORK**

### **7.1 GENERAL**

7.1.1 Changes in the Work may be accomplished, after the execution of the Contract and without invalidating the Contract, by Change Order, Field Work Directive/Force

Account or order for a minor change in the Work that does not affect the Contract Time or the Contract Sum, subject to the limitations stated in this **Article VII** and elsewhere in the Contract Documents.

- 7.1.2 A Change Order shall be based upon agreement among the Owner and Contractor; a Field Work Directive requires a directive by Owner and, if necessary, Design Consultant and may or may not be agreed to by Contractor; and an order for a minor change in the Work that does not affect the Contract Time or the Contract Sum may be issued by Owner.
- 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents and Contractor promptly shall proceed with the changed Work, unless otherwise provided in a Change Order, Field Work Directive or order for a minor change in the Work or in this **Article VII**.
- 7.1.4 Changes resulting from Change Orders, Field Work Directives or orders for minor changes shall be recorded by Contractor on the As-Built record documents.

## **7.2 CHANGE ORDERS**

- 7.2.1 A Change Order is a written modification of the Contract signed by both Owner and Contractor (and approved by City Council, if required) that authorizes an addition, deletion or revision in the Work or an adjustment in the Contract Sum or the Contract Times and is issued on or after the Effective Date of the Agreement.
- 7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in **Section 7.3.4** herein.
- 7.2.3 Acceptance of a Change Order by Contractor shall constitute a full accord and satisfaction for any and all claims and costs of any kind, whether direct or indirect, including, but not limited to impact, delay or acceleration damages arising from the subject matter of the Change Order. Each Change Order shall be specific and final as to prices and any extensions of time, with no reservations or other provisions allowing for future additional money or time as a result of the particular changes identified and fully compensated in the Change Order. The execution of a Change Order by Contractor shall constitute conclusive evidence of Contractor's agreement to the ordered changes in the Work, cost and additional time, if any. This Contract, as amended, forever releases any Claim against Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release of any Claim applies to Claims related to the cumulative impact of all Change Orders and to any Claim related to the effect of a change on unchanged Work.
- 7.2.4 Owner or Design Consultant will prepare Change Orders and Field Work Directives and will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time.

Such changes shall be effected by written order, which Contractor promptly shall carry out and record on the As-Built record documents.

- 7.2.5 Contractor and Subcontractors shall be entitled to include overhead and profit in any Change Order only as provided by Project Specifications.

### **7.3 FIELD WORK DIRECTIVES**

- 7.3.1 A Field Work Directive is a written directive signed by Owner and, if necessary, Design Consultant directing a change in the Work prior to agreement on an adjustment, if any, in the Contract Sum or Contract time, or both. Owner may, by Field Work Directive and without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, with any changes to the Contract Sum and/or the Contract Time to be adjusted according to the terms of this **Section 7.3**.
- 7.3.2 A Field Work Directive shall be used in the absence of total agreement on the terms of a Change Order. Owner will issue a Field Work Directive to Contractor with a defined Not-To-Exceed dollar amount for the scope of Work defined.
- 7.3.3 Upon receipt of a Field Work Directive, Contractor promptly shall proceed with the change in the Work involved and, in writing, advise Owner of the Contractor's agreement or disagreement with the method, if any, provided in the Field Work Directive for determining the proposed adjustment in the Contract Sum or Contract Time.
- 7.3.4 If the Field Work Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods, as applicable:
- 7.3.4.1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
  - 7.3.4.2 prices, including unit prices, stated in the Contract Documents or subsequently agreed upon;
  - 7.3.4.3 cost to be determined in a manner agreed upon by Owner and Contractor and a mutually acceptable fixed or percentage fee; or
  - 7.3.4.4 as provided in **Section 7.3.6** herein.
- 7.3.5 If Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall initially be determined by Design Consultant on the basis of reasonable costs and savings attributable to the change including, in case of an increase in the Contract Sum, as applicable, a reasonable allowance for overhead and profit. In such case, and also under **Section 7.3.4.3** herein, Contractor shall keep and present, in such form as Owner may prescribe, an itemized and detailed accounting together with appropriate supporting data. Unless otherwise provided in the Contract

Documents, costs for the purposes of this **Section 7.3.5** shall be limited to the following:

- 7.3.5.1 costs of all labor, including social security, old age and unemployment insurance, fringe benefits required by Law, agreement or custom, and workers' compensation insurance;
  - 7.3.5.2 costs of all materials, supplies and equipment, including cost of transportation, storage installation, maintenance, dismantling and removal, whether incorporated or consumed;
  - 7.3.5.3 rental costs of all machinery and equipment, exclusive of hand tools, whether rented from Contractor or others, including costs of transportation, installation, minor repairs and replacements, dismantling and removal;
  - 7.3.5.4 expenses incurred in accordance with Contractor's standard personnel policy for travel approved in writing by Owner in advance;
  - 7.3.5.5 costs of premiums for all bonds and insurance, permit fees and allowable sales, use or similar taxes related to the Work;
  - 7.3.5.6 all additional costs of supervision and field office personnel directly attributable to the change; and
  - 7.3.5.7 all payments made by the Contractor to Subcontractors.
- 7.3.6 The amount of credit to be allowed by Contractor to Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost of the deleted or change Work, plus Contractor's allocated percent for profit and overhead, as confirmed by Design Consultant, subject to any equitable adjustment recommended by Design Consultant and approved by Owner. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase or decrease, if any, with respect to that change.
- 7.3.7 If Owner and Contractor agree with the determination made by Design Consultant concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.
- 7.3.8 If Owner and Contractor can not reach an agreement on either an adjustment on the Contract Sum and Contract Time, pursuant to an issued Field Work Directive, Owner and Contractor shall execute a Change Order for the adjustment on the Contract Sum or Contract Time, if any, the parties do agree upon for the Work performed and Contractor reserves the right to file a Claim for any disagreements in Contract Sum or Contract Time not addressed in the Change Order, pursuant to

**Section 4.4** herein. If Owner and Contractor can not agree on both the adjustment in the Contract Sum and the Contract Time associated with an issued Field Work Directive, Owner unilaterally shall file a Change Order listing Owner's adjustments in the Contract Sum and/or Contract Time and Contractor reserves the right to file a Claim for payment and/or time, pursuant to **Section 4.4** herein.

**7.4 MINOR CHANGES TO THE WORK.** Owner or Design Consultant shall have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on Owner and Contractor. Contractor promptly shall carry out such written orders and record such changes in the As-Built drawings.

**7.5 TIME REQUIRED TO PROCESS CHANGE ORDERS**

7.5.1 All responses by Contractor to proposal requests from Owner or Design Consultant shall be accompanied by a complete itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow Owner and Design Consultant a minimum of thirty (30) calendar days after receipt by Owner to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. Each of Contractor's responses to proposal requests shall include a statement that the cost and additional time described and requested in Contractor's response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution or other grounds for seeking extra compensation or additional time under the Contract Documents, without reservation or further recourse.

7.5.2 All Change Orders require written approval by either Owner or City Council or, where authorized by the state law and Owner ordinance, by Owner's City Manager or designee, pursuant to Administrative Action. The approval process requires a minimum of forty-five (45) calendar days after submission to Owner in final form with all supporting data. Receipt of a submission by Owner does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal will be authorized by Owner or City Council Resolution or Administrative Action. **THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR INCREASE IN THE CONTRACT SUM WILL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS.** Pending the approval of a Change Order as described above, Contractor will proceed with the work under a pending Change Order only if directed in writing to do so by Owner.

## ARTICLE VIII. TIME

### 8.1 PROGRESS AND COMPLETION

- 8.1.1 **TIME LIMITS STATED IN THE CONTRACT DOCUMENTS ARE OF THE ESSENCE OF THE CONTRACT.** By executing the Contract, Contractor confirms that the Contract Time is a reasonable period for performing the Work.
- 8.1.2 Contractor shall proceed with the Work expeditiously using adequate forces and shall achieve Substantial Completion within the Contract Time.
- 8.1.3 Nothing in this **Article VIII** shall be construed as prohibiting Contractor from working on Saturdays if it so desires and giving Owner at least the prerequisite forty-eight (48) hours written notice of intent to perform Work on Saturday, Sunday and holidays so that Owner's representative may be scheduled to observe/inspect said Work and only if Contractor has performed work on the Project during the same week of the requested Saturday, Sunday or holiday.

### 8.2 DELAYS AND EXTENSIONS OF TIME

- 8.2.1 Neither Owner nor Contractor, except as provided for in this **Section 8.2**, shall be liable to the other for any delay to Contractor's Work by reason of fire, act of God, riot, strike or any other cause beyond Owner's control. Should any of these listed factors delay the Work's critical path, as evidenced by a Time Impact Analysis developed by Contractor and verified by Design Consultant, Program Manager and Owner, Contractor shall receive an extension of the Contract Times equal to the delay if a written claim is made within five (5) calendar days of the delaying event and granted by Owner. Under no circumstances shall Owner be liable to pay Contractor any compensation for such delays. Note that any request for an extension of time due to delays or disruption caused by unusually severe weather are addressed in **Section 4.3.6.2** herein.
- 8.2.2 Should Contractor be delayed solely by the act, negligence or default of Owner or Design Consultant, and should any of these factors delay the Project's critical path, as evidenced by a Time Impact Analysis developed by Contractor and verified by Design Consultant, Program Manager and Owner, Contractor shall receive an extension of the Contract Time equal to the verified delay or portion thereof if a written claim is made within five (5) calendar days of the act, negligence or default of Owner or Design Consultant and granted by Owner. In addition, Contractor, upon timely notice to Owner, with substantiation by Owner and Design Consultant and upon approval of Owner, shall be compensated for its Project facilities and field management expenses on a per diem basis (said per diem includes the costs incurred by Contractor to administer its Work and does not include costs associated for any tier of Subcontractor or supplier to administer their Work. Compensation for Subcontractor's and supplier's compensable delay affecting the Project critical path shall be separate and apart from the per diem cost due and payable to the Contractor) for the particular Project delayed and for the period of

the critical path delay attributable to the Owner-caused event. In no event will Contractor be entitled to home office or other off-site expenses or damages.

- 8.2.3 Claims relating to time shall be made in accordance with applicable provisions of **Section 4.3** herein.
- 8.2.4 This Contract does not permit the recovery of damages by Contractor for delay, disruption or acceleration, other than those described in **Section 8.2.2** herein, as provided under **Section 4.3.11(3)** herein and those justified by a Time Impact Analysis. Contractor agrees that it fully shall be compensated for all delays solely by an extension of non-compensatory time or as contemplated in **Section 8.2.2** herein.

## **ARTICLE IX. PAYMENTS AND COMPLETION**

**9.1 CONTRACT SUM.** The Contract Sum is stated in the Contract and, including authorized adjustments, is the total maximum not-to-exceed amount payable by Owner to Contractor for performance of the Work under the Contract Documents

### **9.2 SCHEDULE OF VALUES**

- 9.2.1 A Schedule of Values for all of the Work shall be submitted by Contractor and shall include quantities and prices of items which, when added together, equal a contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Where applicable, overhead and profit shall be included as a separate line item.
- 9.2.2 Before the first Application for Payment, Contractor shall submit to Owner and Design Consultant a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as Owner and Design Consultant may require. This schedule, unless objected to by Design Consultant or Owner, shall be used as a basis for reviewing Contractor's Applications for Payment.

### **9.3 APPLICATIONS FOR PAYMENT**

- 9.3.1 Contractor shall submit Applications for Payment to Owner electronically. Contractor shall electronically attach to its Application for Payment all data substantiating Contractor's right to payment as Owner or Design Consultant may require, such as copies of requisitions from Subcontractors and material suppliers reflecting retainage, if provided for in the Contract Documents, and reflecting a deduction for Liquidated Damages, if applicable. Applications for Payment shall not include requests for payment for portions of the Work which Contractor does not intend to pay to a Subcontractor or material supplier, unless such Work has been performed by others whom Contractor intends to pay.
- 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the Site

for subsequent incorporation in the Work and verified by Owner. If approved in advance in writing by Owner, payment similarly may be made for materials and equipment suitably stored off the Site at a location agreed upon in writing and verified by Owner. Payment for materials and equipment stored on or off the Site shall be conditioned upon compliance by Contractor with procedures reasonably satisfactory to Owner to establish Owner's title to such materials and equipment or otherwise protect Owner's interest. Contractor solely shall be responsible for payment of all costs of applicable insurance, storage and transportation to the site for materials and equipment stored off the site.

9.3.3 Contractor warrants that, upon submittal of an Application for Payment, all Work for which payment previously has been received from Owner shall, to the best of Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of Contractor, Subcontractors, material suppliers or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work. **CONTRACTOR SHALL INDEMNIFY AND HOLD OWNER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTEREST OR ENCUMBRANCES FILED BY CONTRACTOR, SUBCONTRACTORS OR ANYONE CLAIMING BY, THROUGH OR UNDER CONTRACTOR OR SUBCONTRACTOR(S) FOR ITEMS COVERED BY PAYMENTS MADE BY OWNER TO CONTRACTOR.**

9.3.4 By submission of an Application for Payment, Contractor certifies that there are no known liens or bond claims outstanding as of the date of said Application for Payment, that all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current application and, except for such bills not paid but so included, there is no known basis for the filing of any liens or bond claims relating to the Work and that releases from all Subcontractors and Contractor's materialmen have been obtained in such form as to constitute an effective release of lien or claim under the laws of the State of Texas covering all Work theretofore performed and for which payment has been made by Owner to Contractor; provided if any of the foregoing is not true and cannot be certified, Contractor will revise the certificate as appropriate and identify all exceptions to the requested certifications.

#### **9.4 PAY APPLICATION APPROVAL**

9.4.1 Design Consultant shall, within two (2) business days after receipt of Contractor's Application for Payment, either approve the Application for Payment or reject the Application for Payment and state on the electronic notification to Contractor and Owner the Design Consultant's reasons for withholding approval, as provided in **Section 9.5.1** herein.

9.4.2 The certification of an Application for Payment will constitute a representation by Design Consultant to Owner, based on Design Consultant's evaluation of the Work and the data comprising the Application for Payment, that the Work has

progressed to the point indicated and that, to the best of Design Consultant's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to any specific qualifications expressed by Design Consultant. The issuance of a Certificate for Payment further will constitute a representation that Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that Design Consultant has:

- (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;
- (2) reviewed construction means, methods, techniques, sequences or procedures;
- (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by Owner to substantiate Contractor's right to payment; or
- (4) made any examination to ascertain how or for what purpose Contractor has used money previously paid on account of the Contract Sum.

## **9.5 DECISIONS TO REJECT APPLICATION FOR PAYMENT**

9.5.1 The Application for Payment may be rejected to protect Owner for any of the following reasons:

9.5.1.1 Work not performed or defective ;

9.5.1.2 third party claims filed or reasonable evidence indicating a probable filing of such claims for which Contractor is responsible hereunder unless security acceptable to Owner is provided by Contractor;

9.5.1.3 failure of Contractor to make payments properly to Subcontractors or for labor, materials or equipment;

9.5.1.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum and Contractor has failed to provide Owner adequate assurance of its continued performance within a reasonable time after demand;

9.5.1.5 damage to Owner or another contractor;

- 9.5.1.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - 9.5.1.7 persistent failure by Contractor to carry out the Work in accordance with the Contract Documents;
  - 9.5.1.8 the applicable liquidated damages were not included in the Application for Payment;
  - 9.5.1.9 billing for unapproved/unverified materials stored off Site; or
  - 9.5.1.10 a current schedule update has not been submitted by Contractor.
- 9.5.2 Owner shall not be deemed in default by reason of rejecting Application for Payment as provided for in **Section 9.5.1** herein.

## **9.6 PROGRESS PAYMENTS**

- 9.6.1 After the final approval of the Application for Payment, Owner may make payment in the manner and within the time provided in the Contract Documents.
- 9.6.2 During the latter part of each month, as the Work progresses on all Owner Contracts regardless of Contract Sum, Owner and Contractor shall determine the cost of the labor and materials incorporated into the Work during that month and actual invoiced cost of Contractor-acquired materials stored on the Project Site, and/or within off-site storage facilities either owned or leased by Contractor. Upon receipt of a complete and mathematically accurate Application for Payment from Contractor, Owner shall make payments, in accordance with **Article IX** herein, to Contractor within thirty (30) calendar days on Contracts totaling four hundred thousand dollars (\$400,000.00) or less, based upon such cost determination and at the Contract prices in a sum equivalent to ninety percent (90%) of each such invoice. The remaining ten percent (10%) retainage shall be held by Owner until the Final Completion. However, where the Contract amount exceeds four hundred thousand dollars (\$400,000.00), installments shall be paid to Contractor at the rate of ninety-five percent (95%) of each monthly invoice within thirty (30) calendar days of Owner receipt of a complete and mathematically accurate Application for Payment from the Contractor, and the retainage held until Final Completion shall be five percent (5%).
- 9.6.3 Owner's payment of installments shall not, in any way, be deemed to be a final acceptance by Owner of any part of the Work, shall not prejudice Owner in the final settlement of the Contract account or shall not relieve Contractor from completion of the Work herein provided.
- 9.6.4 Contractor shall, within ten (10) calendar days following receipt of payment from Owner, pay all bills for labor and materials performed and furnished by others in connection with the construction, furnishing and equipping of the improvements

and the performance of the work, and shall, if requested, provide Owner with written evidence of such payment. Contractor's failure to make payments or provide written evidence of such payments within such time shall constitute a material breach of this contract, unless Contractor is able to demonstrate to Owner bona fide disputes associated with the unpaid Subcontractor(s) or supplier(s) and its/their work. Contractor shall include a provision in each of its subcontracts imposing the same written documentation of payment obligations on its Subcontractors as are applicable to Contractor hereunder, and if Owner so requests, shall provide copies of such Subcontractor payments to Owner. If Contractor has failed to make payment promptly to Contractor's Subcontractors or for materials or labor used in the Work for which Owner has made payment to the Contractor, Owner shall be entitled to withhold payment to Contractor to the extent necessary to protect Owner.

- 9.6.5 Owner and/or Design Consultant shall, if practicable and upon request, furnish to Subcontractor information regarding percentages of completion or amounts applied for by Contractor and action taken thereon by Owner and Design Consultant on account of portions of the Work done by such Subcontractor.
- 9.6.6 Neither Owner nor Design Consultant shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law, if any.
- 9.6.7 Payments to material suppliers shall be treated in a manner similar to that provided in **Section 9.6.2**, **Section 9.6.3** and **Section 9.6.4** herein regarding Subcontractors.
- 9.6.8 A Certificate for Payment, a progress payment or a partial or entire use or occupancy of the Project by Owner shall not constitute acceptance of Work that was not performed or furnished in accordance with the Contract Documents.
- 9.6.9 Contractor shall, as a condition precedent to any obligation of Owner under this Contract, provide to Owner payment and performance bonds in the full penal amount of the Contract in accordance with Texas Government Code Chapter 2253.

## **9.7 SUBSTANTIAL COMPLETION**

- 9.7.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof sufficiently is complete in accordance with the Contract Documents so that Owner may occupy or utilize the Work for its intended use. In the event Substantial Completion is not achieved by the designated date, or as that date may be extended by Change Order(s), Owner may withhold payment of sums necessary to pay the estimated Liquidated Damages due Owner until Final Completion is achieved. Owner also shall be entitled, at any time, to deduct out of any sums due to Contractor any or all Liquidated Damages due Owner in accordance with the Contract between Owner and Contractor.
- 9.7.2 When Contractor considers that the Work, or a portion thereof which Owner agrees to accept separately, is Substantially Complete, Contractor shall prepare and submit to Owner and Design Consultant a preliminary comprehensive list of items to be completed or corrected prior to Final Completion and final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.
- 9.7.3 Upon receipt of Contractor's list of items to be completed or corrected, Owner and Design Consultant will make a Site inspection to determine whether the Work or designated portion thereof is Substantially Complete. If Owner's or Design Consultant's inspection discloses any item, whether or not it was included on Contractor's list of items to be completed or corrected, which is not sufficiently complete or correct in accordance with the Contract Documents so that Owner may occupy or utilize the Work or designated portion thereof for its intended use, Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon written notification by Owner or Design Consultant. In such case, Contractor then shall submit a request for another inspection by Owner and Design Consultant to determine Substantial Completion and Contractor shall be responsible for all costs incurred and associated with re-inspection.
- 9.7.4 When the Work or designated portion thereof is Substantially Complete, Design Consultant or Owner shall prepare a Certificate of Substantial Completion (Vertical Projects) or a Letter of Conditional Approval (Horizontal Projects) which shall:
- (1) establish the date of Substantial Completion (which will be the date on which the Work met the requirements under the Contract Documents for Substantial Completion);
  - (2) establish responsibilities of Owner and Contractor, as agreed to by Owner and Contractor, for security, maintenance, heat, utilities, damage to the Work and insurance; and
  - (3) fix the time limit by which Contractor shall complete all items on the list accompanying the Certificate.

Warranties required by the Contract Documents shall commence on the date of

Substantial Completion of the Work, or the designated portion thereof, unless otherwise provided in the Certificate of Substantial Completion.

## **9.8 PARTIAL OCCUPANCY OR USE**

- 9.8.1 Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with Contractor, provided such occupancy or use is consented to by the insurer as required under **Section 11.4.1.5** herein and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided Owner and Contractor have accepted in writing the responsibilities assigned to each of them for security, maintenance, heat, utilities, damage to the Work and insurance and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When Contractor considers a portion of the Work to be Substantially Complete, Contractor shall prepare and submit a list of items to be completed or corrected prior to Final Completion and final payment and submit such list to Owner and Design Consultant, as provided under **Section 9.8.2** herein. Consent of Contractor to partial occupancy or use shall not be unreasonably withheld. The state of the progress of the Work shall be determined by written agreement between Owner and Contractor or, if no agreement is reached, by the decision of Design Consultant.
- 9.8.2 Immediately prior to such partial occupancy or use, Owner, Contractor and Design Consultant collectively shall inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
- 9.8.3 Unless expressly agreed upon in writing, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.
- 9.8.4 Upon such partial occupancy or use, and upon Substantial Completion, Owner may assume responsibility for maintenance, security and insuring that portion of the Work that it has put into use.
- 9.8.5 Partial occupancy or use by Owner does not constitute substantial completion and does not start any warranty period(s).

## **9.9 FINAL COMPLETION AND FINAL PAYMENT**

- 9.9.1 When all of the Work finally is completed and ready for final inspection, Contractor shall notify Owner and Design Consultant thereof in writing. Thereupon, Owner and Design Consultant will make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the final Application for Payment may be submitted. If Owner and Design Consultant are unable to approve the final Application for Payment for reasons for which Contractor is responsible and Owner and Design Consultant are required to repeat a final inspection of the Work, Contractor shall be responsible for all costs incurred and associated with such repeat final inspection(s) and said costs may be deducted by Owner from the Contractor's retainage.
- 9.9.2 Contractor shall not be entitled to payment of retainage unless and until it submits to Owner its affidavit that the payrolls, invoices for materials and equipment, and other liabilities, to include Liquidated Damages, connected with the Work for which Owner or the Owner's property might be responsible fully have been paid or otherwise satisfied or will be paid from final payment; releases and waivers of liens from all Subcontractors of Contractor and of any and all other parties required by Design Consultant or Owner that either are unconditional or conditional on receipt of final payment; Certificates of insurance showing continuation of required insurance coverage; such other documents as Owner may request; and consent of Surety to final payment. A Retainage Checklist shall be provided by Owner to Contractor upon request.
- 9.9.3 If, after Substantial Completion of the Work, Final Completion thereof materially is delayed through no fault of Contractor or by Issuance of Change Orders affecting Final Completion, and Design Consultant so confirms, Owner shall, upon application by Contractor and certification by Design Consultant and without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of Surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Design Consultant prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.
- 9.9.4 Request for final payment by Contractor shall constitute a waiver of all claims against Owner except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

**9.10 ADDITIONAL INSPECTIONS.** In addition to any Liquidated Damages payable to Owner by Contractor, Owner shall be entitled to deduct from the Contract Sum amounts paid to Design Consultant for any additional inspections or services, provided that Design Consultant undertook these services due to the fault or neglect of Contractor if:

- (1) Design Consultant is required to make more than one inspection for Substantial Completion;
- (2) Design Consultant is required to make more than one inspection for final Completion; or
- (3) the Work is not substantially complete within thirty (30) calendar days after the date established for Substantial Completion in the Contract Documents.

## **ARTICLE X. PROTECTION OF PERSONS AND PROPERTY**

### **10.1 SAFETY PRECAUTIONS AND PROGRAMS**

- 10.1.1 Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. Contractor shall develop a safety program applicable to each job site and to the Work to be done, review such program with Owner in advance of beginning the Work, and enforce such program at all times. Further, Contractor shall comply with all applicable laws and regulations including, but not limited to, the standards and regulations promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970 (OSHA) and any other legislation enacted for the safety and health of Contractor employees. Owner shall have the right, but not the obligation, to inspect and verify Contractor's compliance with Contractor's responsibility for protecting the safety and health of its employees and Subcontractor.
- 10.1.2 Contractor shall notify Owner immediately, by telephone with prompt confirmation in writing, of all injuries and fatalities including, but not limited to, copies of all reports and other documents filed or provided to Contractor's insurers and the State of Texas in connection with such injuries or fatalities.
- 10.1.3 Contractor has adopted or shall adopt its own policy to assure a drug and alcohol free work place while performing the Work. Contractor's employees, agents, and Subcontractors shall not perform any service for Owner while under the influence of alcohol or any controlled substance. Contractor, its employees, agents and Subcontractors shall not use, possess, distribute or sell illegal, illicit and/or prescribed controlled drugs or drug paraphernalia or misuse legitimate prescription drugs while on Site or performing the Work. Contractor, its employees, agents and Subcontractors shall not use, possess, distribute or sell alcoholic beverages while performing the Work or while on Site or performing the Work. Contractor will remove any of its employees or Subcontractor employees from performing the Work or from the Site any time there is suspicion of alcohol and/or drug use, possession or impairment involving such employee and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Contractor to remove employees or Subcontractor employees from performing the Work or from the

Site any time cause exists to suspect alcohol or drug use. In such cases, Contractor's or Subcontractor's employees only may be considered for return to work after Contractor certifies, as a result of a for-cause test conducted immediately following a removal, said employee was in compliance with this Contract. Contractor will not employ any individual, or will not accept any Subcontractor employees, to perform the Work who either refuses to take or tests positive in any alcohol or drug test.

10.1.4 Contractor shall comply with all applicable federal, state and local drug and alcohol related laws and regulations (e.g., Department of Transportation regulations, Department of Defense Drug-free Work-free Workforce Policy, Drug-Free Workplace Act of 1988). The presence of any firearms or other lethal weapons by any person is prohibited on the Project site, regardless of whether the owner thereof has a permit for a concealed weapon.

10.1.5 Both Owner and Contractor agree that these safety and health terms are of the highest importance and that a breach or violation of any of the terms of this **Section X** by Contractor or a Subcontractor will be a material and substantial breach of this Contract. In the event that Owner shall determine that Contractor has breached or violated the terms of this Section, then Owner shall determine, immediately upon written notice to Contractor, whether the Work shall be suspended as a result thereof. If the Work is suspended, the Work shall not recommence until Owner is satisfied that the safety provisions hereof shall not be breached or violated thereafter. If Owner terminates the Contract as a result of such breach or violation, Owner and Contractor shall complete their obligations hereunder to one another in accordance with **Section 14.2** herein.

10.1.6 Nothing contained in this **Article X** shall be interpreted as creating or altering the legal duty of Owner to Contractor or to Contractor's agents, employees, Subcontractors or third parties, or altering the status of Contractor as an independent contractor.

10.1.7 Notwithstanding either of the above provisions, or whether Owner exercises its rights set forth herein, Owner neither warrants nor represents to Contractor, Contractor's employees or agents, any Subcontractors or any other third party that Contractor's safety policy meets the requirements of any applicable law, code, rule or regulation, nor does Owner warrant that the proper enforcement of Contractor's policy will insure that no accidents or injuries will occur. In addition, any action by Owner under these provisions in no way diminishes any of Contractor's obligations under applicable law or the contract documents.

## **10.2 SAFETY OF PERSONS AND PROPERTY**

10.2.1 Contractor shall take reasonable precautions for the safety of and shall provide reasonable protection to prevent damage, injury or loss to:

- 10.2.1.1 employees performing the Work and other persons who may be affected thereby;
  - 10.2.1.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of Contractor or Contractor's Subcontractors or Sub-Subcontractors; and
  - 10.2.1.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of Construction.
- 10.2.2 Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- 10.2.3 Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying all owners and users of adjacent sites and utilities.
- 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for the execution of the Work, Contractor shall exercise extraordinary care and shall carry on such activities under the direct supervision of properly qualified personnel. Prior to the use of any explosives, Contractor shall submit a written blasting plan, shall obtain Owner's approval and shall comply with Owner's requirements for such use.
- 10.2.5 Contractor promptly shall remedy any and all damage and loss (other than damage or loss insured under property insurance required by the Contract Documents). Contractor shall also HOLD HARMLESS and UNCONDITIONALLY INDEMNIFY, PROTECT and DEFEND Owner, its elected officials, employees, officers, directors, volunteers and representatives of Owner, individually or collectively, from and against any and all damage or loss to property (other than the Work itself and including property of Contractor and of Owner) referred to in **Section 10.2.1.2** and **Section 10.2.1.3** herein, but only to the extent caused in whole or in part by the acts or omissions of Contractor, its agents, servants, and employees, or its Subcontractor(s) and its/their agents, servants, and employees, or anyone directly or indirectly employed by Contractor or Subcontractor, or by any other person or entity for which Contractor or Subcontractor may be responsible under the Contract Documents in connection with the Work to be performed, services to be rendered or materials to be furnished under this Contract, including, but not limited to, violations of any statute, regulation, ordinance or provision of this Contract. Notwithstanding anything to the contrary included herein, in no event shall Contractor be liable for claims arising out of accidents resulting from the sole negligence of Owner, all without, however, waiving any governmental immunity available to Owner under Texas Law and without waiving any defenses of the parties under Texas Law.

The foregoing obligations of Contractor are in addition to Contractor's obligations under **Section 3.18** herein.

- 10.2.6 Contractor shall designate a responsible member of Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated by Contractor in writing to Owner and Design Consultant.
- 10.2.7 Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.
- 10.2.8 Notwithstanding the delivery of a survey or other documents by Owner, Contractor shall use reasonable efforts to perform all Work in such a manner so as to avoid damaging any utility lines, cables, pipes or pipelines on the property. Contractor acknowledges and accepts that the location of underground utilities (both public and private) reflected on any City-provided plans are not guaranteed and may not be completely accurate. Contractor shall locate and verify any and all utilities and associated service lines prior to beginning any Work. Contractor shall be responsible for and shall repair, at Contractor's own expense, any damage done to lines, cables, pipes and pipelines identified or not identified to Contractor.

### **10.3 EMERGENCIES.**

- 10.3.1 In an emergency affecting safety of persons or property, Contractor shall exercise its best efforts to act to prevent or minimize threatened damage, injury or loss. Additional compensation or extension of time claimed by Contractor on account of an emergency shall be determined, as provided in **Section 4.3** and **Article VII** herein.
- 10.3.2 If Contractor causes damage resulting in an issue of safety and/or security to a property owner, Contractor immediately shall repair any damage caused. If Contractor does not or will not act immediately to repair the damage caused by Contractor to eliminate the resulting safety and/or security issue(s), Owner shall act to repair the damage caused and deduct all costs associated with the repair from any money due Contractor.

### **10.4 PUBLIC CONVENIENCE AND SAFETY**

- 10.4.1 Contractor shall place materials stored at the Project site and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by Owner. Sidewalks or streets shall not be obstructed, except by special permission of Owner. Materials excavated and construction materials or plants used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances and fire alarm or police call boxes in the vicinity.

10.4.2 Owner reserves the right to remedy any neglect on the part of Contractor, in regard to public convenience and safety, which may come to Owner's attention after twenty-four (24) hours notice in writing to Contractor. In case of an emergency, Owner shall have the right immediately to remedy any neglect without notice. In either case, the cost of any work done by or for Owner to remedy Contractor's neglect shall be deducted by Owner from Contractor's Contract Sum. Contractor shall notify Owner, Owner's Traffic Control Department and Design Consultant when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be given at least forty-eight (48) hours in advance. Owner reserves the right to postpone and/or prohibit any closure or obstruction of any streets or thoroughfares, to the extent necessary for the safety and benefit of the traveling public. Contractor shall, when directed by Owner or Design Consultant, keep any street or streets in condition for unobstructed use by Owner departments. When Contractor is required to construct temporary bridges or make other arrangements for crossing over ditches or around structures, Contractor's responsibility for accidents shall include the roadway approaches as well as the crossing structures.

10.4.3 Contractor shall limit airborne dust and debris throughout the Project site and its duration. Contractor shall apply the necessary amounts of water or other appropriate substance required to maintain sufficient moisture content for dust control. For City horizontal projects, Contractor shall apply appropriate amounts of water or other appropriate substance to the base on streets under construction and on detours required to maintain sufficient moisture control in the surface layer for dust control.

**10.5 BARRICADES, LIGHTS AND WATCHMEN.** If the Work is carried on, in or adjacent to any street, alley or public place, Contractor shall, at Contractor's own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, provide sufficient watchmen and take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that will be visible at night, and shall be illuminated by lights as required under City's Barricades specifications. The term "lights," as used in this **Section 10.5**, shall mean flares, flashers or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices also shall be erected to keep vehicles from being driven on or into any Work under construction. Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights and/or watchmen necessary to protect the Work. Whenever evidence is found of such damage, Owner or Design Consultant may order the damaged portion immediately removed and replaced by Contractor at Contractor's sole cost and expense. Contractor's responsibility for maintenance of barricades, signs, lights, and for providing watchmen, as required under this **Section 10.5**, shall not cease until the Project has been finally accepted by Owner.

**10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED.** In case it is necessary for Contractor to change or move the property of Owner or of any telecommunications or public utility, such property shall not be touched, removed or interfered with until ordered

to do so by Owner. Owner reserves the right to grant any public or private utility personnel the authority to enter upon the Project site for the purpose of making such changes or repairs to their property that may become necessary during the performance of the Work. Owner reserves the right of entry upon the Project site at any time and for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures and for making other repairs, changes, or extensions to any of Owner's property. Owner's actions shall conform to Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to Owner by Contractor.

**10.7 TEMPORARY STORM SEWER AND DRAIN CONNECTIONS.** When existing storm sewers or drains have to be taken up or removed, Contractor shall, at its expense, provide and maintain temporary outlets and connections for all public and private storm sewers and drains. Contractor also shall provide for all storm sewage and drainage which will be received from these storm drains and sewers. For this purpose, Contractor shall provide and maintain, at Contractor's own expense, adequate pumping facilities and temporary outlets or diversions. Contractor shall, at Contractor's own expense, construct such troughs, pipes or other structures that may be necessary and shall be prepared at all times to dispose of storm drainage and sewage received from these temporary connections until such time as the permanent connections are built and are in service. The existing storm sewers and connections shall be kept in service and maintained under the Contract, except where specified or ordered to be abandoned by Design Consultant. All storm water and sewage shall be disposed of in a satisfactory and lawful manner so that no nuisance is created and that the Work under construction will be adequately protected.

**10.8 ARRANGEMENT AND CHARGE FOR WATER FURNISHED BY THE OWNER/ELECTRICITY FOR THE PROJECT/WIRELESS ACCESS**

10.8.1 When Contractor desires to use Owner's water in connection with the Work, Contractor shall make complete and satisfactory arrangements with the San Antonio Water Service and shall be responsible for the cost of the water Contractor uses. Where meters are required and used, the charge will be at the regular established rate; where no meters are required and used, the charge will be as prescribed by Owner ordinance, or where no ordinance applies, payment shall be based on estimates made by the representatives of the San Antonio Water Service.

10.8.2 Contractor shall make complete and satisfactory arrangements for electricity and metered electrical connections with Owner or with any retail electric provider, in the event that separately metered electrical connections are required for the Project. Contractor shall pay for all electricity used in the performance of the Work through separate metered electrical connections obtained by Contractor through a retail electric provider.

10.8.3 If Contractor elects or is required by City to place and operate out of a construction trailer or office on the Project site, for which all related costs shall be borne by Contractor, Contractor shall provide for an electronic device to exchange

data wirelessly via a local area computer network, to include high-speed internet connections (commonly known as “Wi Fi access”), for City personnel’s use while on the Project site for the duration of the Project.

**10.9 USE OF FIRE HYDRANTS.** Contractor, Subcontractors and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to or connect anything with any fire hydrant, stop valve or stop cock, or tap any water main belonging to Owner, unless duly authorized in writing to do so by Owner.

## **10.10 ENVIRONMENTAL COMPLIANCE**

10.10.1 Contractor and its Subcontractors are deemed to have made themselves familiar with and at all times shall comply with any and all applicable federal, state or local laws, rules, regulations, ordinances and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances or rules of common law including, but not limited to, any judicial or administrative order, consent decree or judgment affecting the Project.

10.10.2 In the event Contractor encounters on the Project Site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and the removal of such materials is not a part of the scope of Work required under the Contract Documents, Contractor immediately shall stop Work in the affected area and report in writing the facts of such encounter to Owner and Design Consultant. Work in the affected area shall not thereafter be resumed except by written order of Owner and written consent of Contractor, unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. Unless removal of such materials is a part of the scope of Work required under the Contract Documents, Owner shall remediate the Hazardous Substance with a separate contractor or through a Change Order with Contractor. If the Hazardous Substance exists in the affected area due to the fault or negligence of Contractor or any of its Subcontractors, Contractor shall be responsible for remediating the condition at the sole expense of Contractor. If applicable, such remediation shall be in accordance with Contractor’s Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by Owner only if the Project critical path is affected and Contractor is not the source of the Hazardous Substance. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of **Section 4.3** and **Article VIII** herein.

10.10.3 Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation and disposal of any Hazardous Substance brought into or onto the site by Contractor or any Subcontractor or Contractor's Supplier. Contractor shall obtain any and all permits necessary for the legal and proper handling, transportation and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation and/or disposal, notify Owner and Design Consultant so that they may observe the activities; provided, however, that it shall be Contractor's sole responsibility to comply with all applicable laws, rules, regulations or ordinances governing said activities.

## ARTICLE XI. INSURANCE AND BONDS

### 11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 Without limiting any of the other obligations or liabilities of Contractor under the Contract Documents, Contractor shall purchase and maintain, during the term of the Contract and at Contractor's own expense, the minimum liability insurance coverage described below with insurance companies duly authorized or approved to do business in the State of Texas and otherwise satisfactory to Owner. Contractor also shall require each Subcontractor performing work under the Contract, at Subcontractor's own expense, to maintain levels of insurance necessary and appropriate for the Work performed during the term of the Contract, said levels of insurance comply with all applicable laws. Subcontractor's liability insurance shall name Contractor and Owner as additional insureds by using endorsement CG 20 26 or broader. Certificates of insurance complying with the requirements prescribed in **Section 11.1.2** herein shall show the existence of each policy, together with copies of all policy endorsements showing Owner as an additional insured, and shall be delivered to Owner before any Work is started. Contractor promptly shall furnish, upon the request of and without expense to Owner, a copy of each policy required, including all endorsements, which shall indicate:

11.1.1.1 Workers' Compensation, with statutory limits, with the policy endorsed to provide a waiver of subrogation as to Owner; Employer's Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$500,000 disease policy limit;

11.1.1.2 Commercial General Liability Insurance, Personal Injury Liability, Independent Contractor's Liability and Products and Completed Operations and Contractual Liability covering, but not limited to, the liability assumed under the indemnification provisions of this Contract, fully insuring Contractor's (and/or Subcontractor's) liability for injury to or death of Owner's employees and all third parties, and for damage to property of third parties, with a combined bodily injury (including death) and property damage minimum limit of \$1,000,000 per occurrence, \$2,000,000 annual aggregate. If coverage is written on a

claims-made basis, coverage shall be continuous (by renewal or extended reporting period) for no less than sixty (60) months following completion of the contract and acceptance of work by Owner. Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to the Project. Owner shall be named as additional insured by using endorsement CG 20 26 or broader. The general liability policy shall include coverage extended to apply to completed operations and XCU hazards. The Completed Operations coverage must be maintained for a minimum of one (1) year after final completion and acceptance of the Work, with evidence of same filed with Owner. The policy shall include an endorsement CG2503 amendment of limits (designated project or premises) in order to extend the policy's limits specifically to the Project in question.

11.1.1.3 Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury (including death) and property damage minimum limit of \$1,000,000 per occurrence. Such insurance shall include coverage for loading and unloading hazards.

11.1.1.4 Five (5) calendar days prior to a suspension, cancellation or non-renewal of any required line of insurance coverage, Contractor shall provide Owner a replacement certificate of insurance with all applicable endorsements included. Owner shall have the option to suspend Contractor.

11.1.2 If any insurance company providing insurance coverage(s) required under the Contract Documents for Contractor becomes insolvent or becomes the subject of any rehabilitation, conservatorship, liquidation or similar proceeding, Contractor immediately shall procure, upon first notice to Contractor or Owner of such occurrence and without cost to Owner, replacement insurance coverage before continuing the performance of the Work at the Project. Any failure to provide such replacement insurance coverage shall constitute a material breach of the Contract.

## **11.2 PROPERTY INSURANCE**

11.2.1 In addition to the insurance described in **Section 11.1** and **Section 11.4** herein, Contractor shall obtain at its expense and maintain throughout the duration of the Project, All-Risk Builder's Risk Insurance, if the Project involves complete construction of a new building, or an All-Risk Installation Floater policy, if the Project involves materials and supplies needed for additions to, renovations or remodeling of an existing building. Coverage on either policy shall be All-Risk, including, but not limited to, Fire, Extended Coverage, Vandalism and Malicious Mischief, Flood (if located in a flood zone) and Theft, in an amount equal to one hundred percent (100%) of the insurable value of the Project for the Installation Floater policy, and one hundred percent (100%) of the replacement cost of the Project for the Builder's Risk policy. If an Installation Floater policy is provided, Owner shall be shown as a Joint Named Insured with respect to the Project. If a

Builder's Risk policy is provided, the policy shall be written on a Completed Value Form, including materials delivered and labor performed for the Project. This policy shall be in the name of Contractor and naming Owner and Subcontractors, as well as any Sub-Subcontractors, as additional insureds as their interests may appear. The policy shall have endorsements as follows:

11.2.1.1 This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.

11.2.1.2 Loss, if any, shall be adjusted with and made payable to Contractor or Owner and Contractor as trustee for the insureds as their interests may appear.

11.2.2 **BOILER AND MACHINERY INSURANCE.** If applicable, Owner shall purchase and maintain Boiler and Machinery Insurance required by the Contract Documents or by law, which specifically shall cover such insured objects during installation and until final acceptance by Owner. This insurance shall include the interests of Owner, Contractor, Subcontractors and Sub-Subcontractors in the Work, and Owner and Contractor shall be named insureds.

11.2.3 **LOSS OF USE INSURANCE.** Owner, at Owner's option, may purchase and maintain such insurance as will insure Owner against loss of use of Owner's property due to fire or other hazards, however caused. Owner waives all rights of action against Contractor that it may now have or have in the future for loss or damage to Owner's property howsoever arising, including consequential losses due to fire or other hazards however caused.

11.2.4 Contractor shall provide to Design Consultant for delivery to Owner a Certificate of Insurance evidencing all property insurance policies procured under **Section 11.2** herein and all endorsements thereto, before any exposure to loss may occur.

11.2.5 Partial occupancy or use in accordance with **Section 9.9** herein shall not commence until the insurance company/companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain consent of the insurance company/companies and shall take no action without mutual written consent with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

### **11.3 PERFORMANCE BOND AND PAYMENT BONDS**

11.3.1 Subject to the provisions of **Section 11.3.2** herein, Contractor shall, with the execution and delivery of the Contract, furnish and file with Owner, in the amounts required in this **Article XI**, the surety bonds described in **Section 11.3.1.1** and **Section 11.3.1.2** herein, with said surety bonds in accordance with the provisions of Chapter 2253, Texas Government Code, as amended. Each surety bond shall be signed by Contractor, as the Principal, as well as by an established corporate surety bonding company as surety, meeting the

requirements of **Section 11.3.3** herein and approved by Owner. The surety bonds shall be accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign and shall include:

**11.3.1.1 PERFORMANCE BOND.** A good and sufficient bond in an amount equal to one hundred percent (100%) of the total Contract Sum, guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any extensions thereof, for the protection of Owner. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final Completion or acceptance of the Work by the Owner or lesser or longer periods as may be otherwise designated in the Contract Documents.

**11.3.1.2 PAYMENT BOND.** A good and sufficient bond in an amount equal to 100% of the total Contract Sum, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract, and for the use and protection of each claimant.

**11.3.2** If the Contract Sum, including Owner-accepted Alternates and allowances, if any, is greater than \$100,000, Performance and Payment Bonds equaling one hundred percent (100%) of the Contract Sum are mandatory and shall be provided by Contractor. If the Contract Sum is greater than \$25,000 but less than or equal to \$100,000, only a Payment Bond equaling One hundred percent (100%) of the Contract amount is mandatory; provided, however, that Contractor also may elect to furnish a Performance Bond in the same amount if Contractor so chooses. If the Contract Sum is less than or equal to \$25,000, Contractor may elect not to provide Performance and Payment Bonds; provided that in such event, no money will be paid by Owner to Contractor until Final Completion of all Work. If Contractor elects to provide Performance and Payment Bonds, the Contract Sum shall be payable to Contractor through progress payments in accordance with these General Conditions.

**11.3.3** No surety will be accepted by Owner that is in default, delinquent on any bonds or that is a party to any litigation against Owner. All bonds shall be made and executed on Owner's standard forms, shall be approved by Owner and shall be executed by not less than one (1) corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties and is otherwise acceptable to Owner. Each bond shall be executed by Contractor and the surety and shall specify that legal venue for enforcement of each bond exclusively shall lie in Bexar County, Texas. Each surety shall designate an agent resident in Bexar County, Texas to which any requisite statutory notices may be delivered and on which service of process may be had in matters arising out of the suretyship.

11.3.4 The person or persons, partnership, company, firm, limited liability company, association, corporation or other business entity to whom the Contract is awarded shall, within ten (10) days after such award, sign the required Contract with Owner and provide the necessary surety bonds and evidence of insurance as required under the Contract Documents. No Contract shall be binding on Owner until:

- (1) it has been approved as to form by Owner's City Attorney;
- (2) it has been executed by Owner's City Manager;
- (3) the performance and payment bonds and evidence of insurance have been furnished to Owner by Contractor, as required by the Contract Documents; and
- (4) a fully executed Contract has been delivered to Contractor.

11.3.5 The failure of Contractor to execute the Contract and deliver the required bonds and evidence of insurance within ten (10) days after the Contract is awarded or as soon thereafter as Owner can assemble and deliver the Contract and by the time the Owner-scheduled Pre-Construction meeting is held shall, at Owner's option, constitute a material breach of Contractor's bid proposal and Owner may rescind the Contract award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices for materials and labor, and it being impracticable and difficult to determine accurately the amount of damages occurring to Owner by reason of Contractor's failure to execute the Contract within ten (10) days and deliver bonds and insurance by the Owner-scheduled Pre-Construction meeting, the filing of a bid proposal shall constitute an acceptance of this **Section 11.3.5**. In the event Owner should re-advertise for bids, the defaulting Contractor shall not be eligible to bid, and the lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this **Section 11.3**.

**11.4 'UMBRELLA' LIABILITY INSURANCE.** Contractor shall obtain, pay for and maintain Umbrella Liability Insurance during the Contract term, insuring Contractor for an amount of not less than \$5,000,000 per occurrence combined limit Bodily Injury (including death) and Property Damage, that follows form and applies in excess of the primary coverage required hereinabove. Owner and Design Consultant shall be named as additional insureds using endorsement CG 20 26 or broader. No aggregate shall be permitted for this type of coverage. The Umbrella Liability Insurance policy shall provide "drop down" coverage, where the underlying primary insurance coverage limits are insufficient or exhausted.

## **11.5 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS**

- 11.5.1 Each insurance policy to be furnished by Contractor shall address the following required provisions within the certificate of insurance, which shall be reflected in the body of the insurance contract and/or by endorsement to the policy:
- 11.5.1.1 Owner and Design Consultant shall be named as additional insureds on all liability coverages, using endorsement CG 20 26 or broader. When Owner employs a Construction Manager on the Project, Contractor and Subcontractor(s) shall include the Construction Manager on all liability insurance policies to the same extent as Owner and Design Consultant are required to be named as additional insureds.
  - 11.5.1.2 Within five (5) calendar days of a suspension, cancellation or non-renewal of any required line of insurance coverage, Contractor shall provide Owner a replacement certificate of insurance with all applicable endorsements included. Owner shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during the Contract.
  - 11.5.1.3 The terms "Owner," "City" or "City of San Antonio" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of Owner and the individual members, employees and agents thereof in their official capacities, while acting on behalf of Owner.
  - 11.5.1.4 The policy phrase or clause "Other Insurance" shall not apply to Owner where Owner is an additional insured on the policy. The required insurance coverage furnished by Contractor shall be the primary insurance for all purposes for the Project, as well as the primary insurance for the additional insureds named in the required policies.
  - 11.5.1.5 All provisions of the Contract Documents concerning liability, duty and standard of care, together with the indemnification provision, shall, to the maximum extent allowable in the insurance market, be underwritten with contractual liability coverage(s) sufficient to include such obligations with the applicable liability policies.
- 11.5.2 Concerning the insurance to be furnished by the Contractor, it is a condition precedent to acceptability which:
- 11.5.2.1 All policies must comply with the applicable requirements and special provisions of this **Article 11**.
  - 11.5.2.2 Any policy evidenced by a Certificate of Insurance shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements set forth herein, and Owner's decision regarding whether any policy contains such provisions and contrary to this requirement shall be final.
  - 11.5.2.3 All policies required are to be written through companies duly authorized and approved to transact that class of insurance in the State of Texas and that otherwise are acceptable to Owner.

11.5.3 Contractor agrees to the following special provisions:

- 11.5.3.1 Contractor hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against Owner, it being the intention that the insurance policies shall protect all parties to the Contract and be primary coverage for all losses covered by the policies. This waiver of subrogation shall be included, by endorsement or otherwise, as a provision of all policies required under this **Article XI**.
- 11.5.3.2 Insurance companies issuing the insurance policies and Contractor shall have no recourse whatsoever against Owner for payment of any premiums or assessments for any deductibles, as all such premiums and assessments solely are the responsibility and risk of Contractor.
- 11.5.3.3 Approval, disapproval or failure to act by Owner, regarding any insurance supplied by Contractor or any SUBCONTRACTOR(s), shall not relieve Contractor of any responsibility or liability for damage or accidents as set forth in the Contract Documents. The bankruptcy, insolvency or denial of liability of or by Contractor's insurance company shall likewise not exonerate or relieve Contractor from liability.
- 11.5.3.4 Owner reserves the right to review the insurance requirements of this **Article XI** during the effective period of this Contract and to adjust insurance coverage and insurance limits when deemed necessary and prudent by Owner's Risk Management Division, based upon changes in statutory law, court decisions or the claims history of Contractor and Subcontractors. Contractor agrees to make any reasonable request for deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, except where policy provisions are established by law or regulation binding upon either party to this Contract or upon the underwriter of any such policy provisions. Upon request by Owner, Contractor shall exercise reasonable efforts to accomplish such changes in policy coverage.
- 11.5.3.5 No special payments shall be made for any insurance policies that Contractor and Subcontractors are required to carry. Except as provided in **Section 11.5.3.4** herein, all amounts payable regarding the insurance policies required under the Contract Documents are included in the Contract Sum.
- 11.5.3.6 Any insurance policies required under this **Article XI** may be written in combination with any of the other policies, where legally permitted, but none of the specified limits neither may be lowered or otherwise negatively impacted by doing so, nor may any of the requirements or special provisions of this **Article XI** be limited or circumvented by doing so.

## **ARTICLE XII. INSPECTING, UNCOVERING AND CORRECTING OF WORK**

**12.1 Inspecting Work.** Owner and Design Consultant will have authority to reject Work that does not conform to the Contract Documents. Whenever Owner or Design Consultant considers it necessary or advisable, Owner and/or Design Consultant will have authority to require inspection or testing of the Work in accordance with this **Article XII**, whether or not such Work is fabricated, installed or completed.

### **12.2 UNCOVERING WORK**

12.2.1 If a portion of the Work is covered, concealed and/or obstructed, contrary to Owner's or Design Consultant's requirements specifically expressed in the Contract Documents, it must be uncovered for Owner's or Design Consultant's inspection and properly be replaced at Contractor's expense without any change in the Contract Time or Sum.

12.2.2 If a portion of the Work has been covered, concealed and/or obstructed and Design Consultant or Owner has not inspected the Work prior to its being covered, concealed and/or obstructed, Owner and Design Consultant retain the right to inspect such Work and, when directed by Owner, Contractor shall uncover it. If said Work is found to be in accordance with the Contract Documents, the costs for uncovering and replacement shall, by appropriate Change Order, be paid by Owner. If such Work uncovered is found to not be in accordance with the Contract Documents, Contractor shall pay all costs associated with the uncovering, correction and replacement of the Work, unless the condition found was caused by Owner or Owner's separate contractor, in which event Owner shall be responsible for payment of actual costs incurred by Contractor.

### **12.3 CORRECTING WORK**

12.3.1 Contractor promptly shall correct any Work rejected by Owner or Design Consultant as failing to conform to the requirements of the Contract Documents, whether inspected before or after Substantial Completion and whether or not fabricated, installed or completed. Contractor shall bear costs of correcting such rejected Work, along with all costs for additional testing, inspections and compensation for Design Consultant's services and expenses made necessary thereby.

12.3.2 In addition to Contractor's warranty obligations, if any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, including, but not limited to these General Conditions, Contractor shall correct it promptly after receipt of written notice from Owner or Design Consultant to correct unless Owner previously has given Contractor a written acceptance or waiver of the defect or nonconformity. Contractor's obligation to correct defective or nonconforming Work remains in effect for:

12.3.2.1 one (1) year after the date of Substantial Completion of the Work or

designated portion of the Work;

12.3.2.2 one (1) year after the date for commencement of warranties established by agreement in connection with partial occupancy under **Section 9.9.1** hereto; or

12.3.2.3 the stipulated duration of any applicable special warranty required by the Contract Documents.

12.3.3 The one (1) year period, described in **Section 12.3.2.1**, **Section 12.3.2.2** and **Section 12.3.2.3** herein, shall be extended, with respect to portions of the Work first performed after Substantial Completion, by the period of time between Substantial Completion and the actual completion of the Work.

12.3.4 The obligations of Contractor under **Section 3.5** herein and this **Section 12.3** shall survive final acceptance of the Work and termination of this Contract. Owner shall give notice to Contractor promptly after discovery of a defective or nonconforming condition in the Work. The one (1) year period stated in this **Section 12.3** does not limit the ability of Owner to require Contractor to correct latent defects or nonconformities in the Work, which defects or nonconformities could not have been discovered through reasonable diligence by Owner or Design Consultant at the time the Work was performed or at the time of inspection for certification of Substantial Completion or Final Completion. The one (1) year period also does not relieve Contractor from liability for any defects or deficiencies in the Work that may be discovered after the expiration of the one (1) year correction period.

12.3.5 Contractor shall remove from the Project Site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by Contractor nor accepted by Owner.

12.3.6 If Contractor fails to correct any defective or nonconforming Work within what Owner deems a reasonable time after Owner or Design Consultant gives written notice of rejection to Contractor, Owner may correct the defective or nonconforming Work in accordance with this **Section 12.3**. If Contractor promptly does not proceed with correction of any defective or nonconforming Work within a reasonable time fixed by written notice from Owner or Design Consultant, Owner may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at Contractor's expense. If Contractor does not pay the costs of removal and storage within ten (10) calendar days after written notice by Owner or Design Consultant, Owner may, upon ten (10) additional calendar days written notice, sell the materials and equipment at auction or at private sale and shall account to Contractor for the proceeds, after deducting all costs and damages that should have been borne by Contractor to correct the defective work, including all compensation for Design Consultant's services and expenses made necessary as a result of the sale, removal and storage. If the proceeds of sale do not cover the costs that Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to

Contractor then or thereafter are not sufficient to cover the deficiency, Contractor shall pay the difference to Owner.

12.3.7 Contractor shall bear the cost of correcting destroyed or damaged construction of Owner or Owner's separate contractors, whether the construction is completed or partially completed, caused by Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

12.3.8 Nothing contained in this **Section 12.3** shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Contract Documents. The establishment of the one (1) year time period, as described in **Section 12.3.2** relates only to the specific obligation of Contractor to correct the Work and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced or to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to correct the Work.

12.3.9 Any Work repaired or replaced, pursuant to this **Article XII**, shall be subject to the provisions of **Article XII** to the same extent as Work originally performed or installed.

**12.4 Acceptance of Nonconforming Work.** Owner may, in Owner's sole discretion, accept Work that is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction. Upon that occurrence, the Contract Sum will be reduced as appropriate and equitable, as solely determined by Owner. Any adjustment will be accomplished whether or not final payment has been made.

### **ARTICLE XIII. COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION**

**13.1 Final Completion Of Contract.** The Contract will be considered completed, except as provided in any warranty or maintenance stipulations, bond or by law, when all the Work has been finally completed, a final inspection is made by Owner and Design Consultant and final acceptance and final payment is made by Owner.

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

### 13.3 TERMINATION BY THE OWNER FOR CAUSE

13.3.1 Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by Owner for any good cause after giving seven (7) calendar days advance written notice and an opportunity to cure to Contractor, including but not limited to the following causes:

13.3.1.1 Failure or refusal of Contractor to start the Work within ten (10) calendar days after the date of the written Notice to Proceed is issued by Owner to Contractor commence Work.

13.3.1.2 A reasonable belief of Owner or Design Consultant that the progress of the Work being made by Contractor is insufficient to complete the Work within the specified Contract time.

13.3.1.3 Failure or refusal of Contractor to provide sufficient and proper equipment or construction forces properly to execute the Work in a timely manner.

13.3.1.4 A reasonable belief that Contractor has abandoned the Work.

13.3.1.5 A reasonable belief that Contractor has become insolvent, bankrupt, or otherwise is financially unable to carry on the Work.

13.3.1.6 Failure or refusal on the part of Contractor to observe any material requirements of the Contract Documents or to comply with any written orders given by Owner or Design Consultant, as provided for in the Contract Documents.

13.3.1.7 Failure or refusal of Contractor promptly to correct any defects in materials or workmanship, or defects of any nature, the correction of which has been directed to Contractor in writing by Owner or Design Consultant.

13.3.1.8 A reasonable belief by Owner that collusion exists or has occurred for the purpose of illegally procuring the contract or a Subcontractor, or that a fraud is being perpetrated on Owner in connection with the construction of Work under the Contract.

13.3.1.9 Repeated and flagrant violation of safe working procedures.

13.3.2 When the Work or any portion of the Work is terminated for any of the causes itemized in **Section 13.3.1** herein, or for any other cause except termination for convenience pursuant to **Section 13.3.5** herein, Contractor shall, as of the date specified by Owner, immediately discontinue the Work or portion of the Work as Owner shall designate, whereupon the Surety shall, within fifteen (15) calendar

days after the written Notice of Termination by Owner For Cause has been served upon Contractor and the Surety or its authorized agents, assume the obligations of Contractor for the Work or that portion of the Work which Owner has ordered Contractor to discontinue and Surety may:

13.3.2.1 perform the Work with forces employed by the surety;

13.3.2.2 with the written consent of Owner, tender a replacement Contractor to take over and perform the Work, in which event the Surety shall be responsible for and pay the amount of any costs required to be incurred for the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or

13.3.2.3 with the written consent of Owner, tender and pay to Owner in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming work and compensate Owner for any other loss sustained as a result of Contractor's default.

In the event of Termination by Owner For Cause involving **Article 13.3.2.1** and/or **Article 13.3.2.2**, the Surety shall assume Contractor's place in all respects and the amount of funds remaining and unpaid under the Contract shall be paid by Owner for all Work performed by the Surety or the replacement contractor in accordance with the terms of the Contract Documents, subject to any rights of Owner to deduct any and all costs, damages or liquidated or actual damages that Owner incurred, including, but not limited to, any and all additional fees and expenses of Design Consultant and any attorneys fees Owner incurs as a result of Contractor's default and subsequent termination.

13.3.3 The balance of the Contract Sum remaining at the time of Contractor's default and subsequent termination shall become due and payable to the Surety as the Work progresses, subject to all of the terms, covenants and conditions of the Contract Documents. If the Surety does not, within the time specified in **Section 13.3.2** herein, exercise its obligation to assume the obligations of the Contract, or that portion of the Work which Owner has ordered Contractor to discontinue, then Owner shall have the power to complete the Work by contract or otherwise, as Owner may deem necessary and elect. Contractor agrees that Owner shall have the right to:

- (1) take possession of or use any or all of the materials, plant, tools, equipment, supplies and property of every kind, to be provided by Contractor for the purpose of the Work; and
- (2) procure other tools, equipment, labor and materials for the completion of the Work at Contractor's expense; and
- (3) charge to the account of Contractor the expenses of completion and labor, materials, tools, equipment, and incidental expenses.

- 13.3.4 All expenses incurred by Owner to complete the Work shall be deducted by Owner out of the balance of the Contract Sum remaining unpaid to or unearned by Contractor. Contractor and the Surety shall be liable to Owner for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other costs, damages, expenses (including, but not limited to, additional fees of Design Consultant and attorney's fees) and liquidated or actual damages incurred as a result of the termination.
- 13.3.5 Owner shall not be required to obtain the lowest bid for the Work of completing the Contract, as described in **Section 13.3.3** herein, but the expenses to be deducted from the Contract Sum shall be the actual cost of such Work and the other damages, as provided in **Section 13.3.3** herein. In case Owner's costs and damages are less than the sum which would have been payable under the Contract if the Work had been completed by Contractor pursuant to the Contract, then Owner may pay Contractor (or the Surety, in the event of a complete Termination by Owner For Cause) the difference, provided that Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such costs for completion and damages shall exceed the amount which would have been payable under the Contract if the Work had been completed by Contractor pursuant to the Contract, then Contractor and its Surety shall pay the amount of the excess to Owner immediately upon written notice from Owner to Contractor and/or the Surety for the excess amount owed. When only a particular part of the Work is being carried on by Owner, by contract or otherwise under the provisions of this Section, Contractor shall continue the remainder of the Work in conformity with the terms of the Contract and in such manner as not to hinder or interfere with the performance of workmen employed and provided by Owner.
- 13.3.6 The right to terminate this Contract for the convenience of Owner (including, but not limited to, non-appropriation of funding) expressly is retained by Owner. In the event of a termination for convenience by Owner, Owner shall, at least ten (10) calendar days in advance, deliver written notice of the termination for convenience to Contractor. Upon Contractor's receipt of such written notice, Contractor immediately shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work then in place. Contractor shall then be paid by Owner, in accordance with the terms and provisions of the Contract Documents, an amount not to exceed the actual labor costs incurred, the actual cost of all materials installed and the actual cost of all materials stored at the Project site or away from the Project site, as approved in writing by Owner but not yet paid for and which can not be returned, plus applicable overhead, profit, and actual, reasonable and documented termination costs, if any, paid by Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents up to the date of termination for convenience, less all amounts previously paid for the Work. No amount ever shall be paid to Contractor for lost or anticipated profits on any part of the Work not performed.

## **13.4 TEMPORARY SUSPENSION OF THE WORK**

13.4.1 The Work or any portion of the Work may temporarily be suspended by Owner, for a time period not to exceed ninety (90) calendar days, immediately upon written notice to Contractor for any reason, including, but not limited to:

13.4.1.1 the causes described in **Section 13.3.1.1** through **Section 13.3.1.9** herein;

13.4.1.2 under other provisions in the Contract Documents that require or permit temporary suspension of the Work;

13.4.1.3 situations where the Work is threatened by, contributes to or causes an immediate threat to public health, safety, or security; or

13.4.1.4 other unforeseen conditions or circumstances.

13.4.2 Contractor immediately shall resume the temporarily suspended Work when ordered in writing to do so by Owner. Owner shall not, under any circumstances, be liable for any claim of Contractor arising from a temporary suspension due to a cause described in **Section 13.4.1** herein; provided, however, that in the case of a temporary suspension for any of the reasons described under **Section 13.4.1.2** through **Section 13.4.1.4** herein, where Contractor is not a contributing cause of the suspension or where the provision of the Contract Documents in question does not specifically provide that the suspension is at no cost to Owner, Owner will make an equitable adjustment for the following items, provided that a claim properly is made by Contractor under **Section 4.3** herein:

13.4.2.1 an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension, as determined by Owner and Design Consultant;

13.4.2.2 an equitable adjustment to the Contract Sum for the actual, necessary and reasonable costs of properly protecting any Work finished or partially finished during the period of the temporary suspension; provided, however, that no payment of profit and/or overhead shall be allowed on top of these costs; and

13.4.2.3 if it becomes necessary to move equipment from the Project Site and then return it to the Project Site when the Work is ordered to be resumed, an equitable adjustment to the Contract Sum for the actual, necessary and reasonable cost of these moves; provided, however, that no adjustment to the Contract Sum shall be due if said equipment is moved to another Project site of Owner.

## **ARTICLE XIV. MISCELLANEOUS PROVISIONS**

**14.1 Small Business Economic Development Advocacy.** Contractor shall comply with the requirements of City's Small Business Economic Development Advocacy Office as posted in the Project's solicitation documents and the Contract Documents.

**14.2 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS**

14.2.1 This Contract shall be governed by the laws and case decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

14.2.2 This Contract is entered into subject to and controlled by the Charter and ordinances of the City of San Antonio and all applicable laws, rules and regulations of the State of Texas and the Government of the United States of America. Contractor shall, during the performance of the Work, comply with all applicable City of San Antonio codes and ordinances, as amended, and all applicable State of Texas and Federal laws, rules and regulations, as amended.

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

**14.4 WRITTEN NOTICE.** Any notice, payment, statement or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by facsimile transmission, email or by mail, postage prepaid, or by overnight delivery to an officer, management level employee or other designated representative of either party. Mailed or email notices shall be addressed to the parties at an address designated by each party, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed received as of three (3) calendar days after mailing.

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

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

14.5.2 No action or failure to act by Owner shall constitute a waiver of a right afforded Owner under the Contract Documents, nor shall any action or failure to act by Owner constitute approval of or acquiescence in a breach of the Contract by

Contractor, except as may be specifically agreed in writing by Change Order, Amendment or Supplemental Agreement.

**14.6 Interest.** Owner shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to **Article IX** of these General Conditions.

#### **14.7 INDEPENDENT MATERIALS TESTING AND INSPECTION**

14.7.1 In some circumstances, Owner shall retain, independent of Contractor, the inspection services, the testing of construction materials engineering and the verification testing services necessary for acceptance of the Project by Owner. Such consultants will be selected in accordance with Section 2254.004 of the Government Code. The professional services, duties and responsibilities of any independent consultants will be described in the agreements between Owner and those consultants. The provision of inspection services by Owner will be for Quality Assurance and shall not reduce or lessen Contractor's responsibility for the Work or its duty to establish and implement a thorough Quality Control Program to monitor the quality of construction and guard the Owner against defects and deficiencies in the Work, as required herein. Contractor fully and solely is responsible for constructing the Project in strict accordance with the Construction Documents.

**14.8 OFFICERS OR EMPLOYEES OF THE OWNER NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF THE OWNER.** Contractor acknowledges the Charter of the City of San Antonio and its Ethics Code prohibits a City officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency, such as City-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (1) a City officer or employee; his parent, child or spouse;
- (2) a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity;
- (3) a business entity in which any individual or entity above listed is a Subcontractor on a City contract, or
- (4) a partner or a parent or subsidiary business entity.

Pursuant to this **Article XIV**, Contractor warrants and certifies, and this Contract is made in reliance thereon, that it, its officers, employees and/or agents are neither officers nor employees of Owner. Except with Owner's low-bid contract

awards, Contractor warrants and certifies that it has tendered to Owner a Discretionary Contracts Disclosure Statement in compliance with Owner's Ethics Code. Any violation of this article shall constitute malfeasance in office and any officer or employee of Owner guilty thereof shall thereby forfeit his office or position. Any violation of this **Section 14.8**, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with Owner shall render a Contract voidable by the Owner's City Manager or City Council.

**14.9 Venue.** This Contract is performed in Bexar County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in Bexar County, Texas.

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

**14.11 NONDISCRIMINATION.** As a condition of this Contract, Contractor covenants that it will take all necessary actions to insure that, in connection with any Work under this Contract, Contractor and its Subcontractor(s) will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. Contractor also shall comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, Contractor shall keep, retain and safeguard all records relating to this Contract or Work performed there under, for a minimum period of four (4) years from Final Completion, unless there is an ongoing dispute under the Contract, then, such retention period shall extend until final resolution of the dispute, with full access allowed to authorized representatives of Owner upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

#### **14.12 GIFTS TO PUBLIC SERVANTS**

14.12.1 Owner may terminate this Contract immediately if Contractor has offered, conferred or agreed to confer any benefit on a City of San Antonio employee or official that the employee or official is prohibited by law from accepting.

14.12.2 For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not

include a contribution or expenditure made and reported in accordance with law.

- 14.12.3 Notwithstanding any other legal remedies, Owner may require Contractor to remove any employee of Contractor, a Subcontractor or any employee of a Subcontractor from the Project who has violated the restrictions of this **Article XIV** or any similar State or Federal law and Owner may obtain reimbursement for any expenditures made to Contractor as a result of an improper offer, an agreement to confer or the conferring of a benefit to a City of San Antonio employee or official.

## **ARTICLE XV. AUDIT**

### **15.1 RIGHT TO AUDIT CONTRACTOR'S RECORDS**

- 15.1.1 By execution of the Contract, Contractor grants Owner the right to audit, examine, inspect and/or copy, at Owner's election at all reasonable times during the term of this Contract and for a period of four (4) years following the completion or termination of the Work, all of Contractor's written and electronically stored records and billings relating to the performance of the Work under the Contract Documents. The audit, examination or inspection may be performed by an Owner designee, which may include its internal auditors or an outside representative engaged by Owner. Contractor agrees to retain its records for a minimum of four (4) years following termination of the Contract, unless there is an ongoing dispute under the Contract, then, such retention period shall extend until final resolution of the dispute. As used in these General Conditions, "Contractor written and electronically stored records" include any and all information, materials and data of every kind and character generated as a result of the work under this Contract. Example of Contractor written and electronically stores records include, but are not limited to: accounting data and reports, billings, books, general ledgers, cost ledgers, invoices, production sheets, documents, correspondences, meeting notes, subscriptions, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers, memoranda, time sheets, payroll records, policies, procedures, Subcontractor agreements, Supplier agreements, rental equipment proposals, federal and state tax filings for any issue in question, along with any and all other agreements, sources of information and matters that may, in Owner's sole judgment, have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Agreement Documents.

- 15.1.2 Owner agrees that it will exercise the right to audit, examine or inspect Contractor's records only during regular business hours. Contractor agrees to allow Owner and/or Owner's designee access to all of the Contractor's Records,

Contractor's facilities and current or former employees of Contractor, deemed necessary by Owner or its designee(s), to perform such audit, inspection or examination. Contractor also agrees to provide adequate and appropriate work space necessary for Owner or its designees to conduct such audits, inspections or examinations.

- 15.1.3 Contractor shall include this **Article XV** in any Subcontractor, supplier or vendor contract.

## **Special Conditions for Horizontal Projects**

### **3.2.5 Differing Site Conditions (Adds Section 3.2.5 to City's General Conditions)**

Contractor promptly shall, before such discovered conditions and/or structures are disturbed, notify Owner in writing of differing site conditions. Differing site conditions are defined as subsurface or latent physical and/or structural conditions at the Site differing materially from those indicated in the Plans, Specifications and other Contract Documents or newly discovered and previously unknown physical conditions at the Site of an unusual nature differing materially from those geophysical conditions typically encountered in the type Work being performed and generally being recognized as not indigenous to the San Antonio, Bexar County, Texas environs.

Owner and/or Design Consultant promptly shall investigate the reported physical and/or structural conditions and shall determine whether or not the physical and/or structural conditions do materially so differ and thereby cause an increase or decrease in Contractor's cost of and/or time required for performance of any part of the Work under this Contract. In the event that Owner reasonably determines that the physical and/or structural conditions materially so differ, a negotiated and equitable adjustment shall be made to the Contract Time and/or Contract Sum and a Change Order promptly shall be issued by Owner.

- (1) No claim of Contractor under this **Section 3.2.5** shall be allowed unless Contractor has given the written notice called for above, prior to disturbing the discovered conditions and/or structures.
- (2) No Contract adjustment shall be allowed under this **Section 3.2.5** for any effects caused on unchanged work.

### **3.4.7 Material Testing (Added to Section 3.4.7 of City's General Conditions)**

Materials not meeting Contract requirements or that do not produce satisfactory results will be rejected by Owner, unless Owner or Design Consultant approves corrective actions. Upon rejection, Contractor immediately shall remove and replace rejected materials. If Contractor does not comply with these requirements, Owner may remove and replace defective material and all costs incurred by Owner for testing, removal and replacement of rejected materials shall be deducted from any money due or owed to Contractor.

The source of supply of each of the materials shall be approved by Owner or Design Consultant before delivery is started and, at the option of Owner, may be sampled and tested by Owner for determining compliance with the governing specifications before delivery is started. If it is found after trial that sources of supply previously approved do not produce uniform and satisfactory products, or if the product from any source proves unacceptable at any time, Contractor shall furnish materials from other approved sources. Only materials conforming to the requirements of the Contract documents and approved by Owner shall be used by Contractor in the work. All materials being used by Contractor are subject to inspection or test at any time during preparation or use. Any material which has been tested and accepted at the source of

supply may be subjected to a check test after delivery and all materials which, when retested, do not meet the requirements of the specifications will be rejected. No material which, after approval, has in any way become unfit for use shall be used in the Work.

If, for any reason, Contractor selects a material which is approved for use by Owner or Design Consultant by sampling, testing or other means, and Contractor decides to change to a different material requiring additional sampling and testing by Owner for approval, Contractor shall pay for any expense incurred by Owner for such additional sampling and testing and the costs incurred by Owner shall be deducted from any money due or owed to Contractor.

#### **4.3.8 Change in Unit Prices (Added to Section 4.3.8 of City's General Conditions)**

Unit prices established in the Contract documents only may be modified when a Change Order or Field Work Directive causes a material change in quantity to a Major Bid Item. A Major Bid Item is defined as a single bid item that constitutes a minimum of five percent (5%) of the total contract value. A material change in quantity is defined as an increase or decrease of twenty five percent (25%) or more of the units of an individual bid item or an increase or decrease of twenty five percent (25%) or more of the dollar value of a lump sum bid item. Revised unit pricing only shall apply to the quantity of a major bid item in excess of a twenty five percent (25%) increase or decrease of the original Contract quantity.

#### **7.2.5 Allowable Markups (Added to Section 7.2.5 of City's General Conditions)**

Maximum allowable markups for Change Order pricing, when said pricing is not determined through unit prices, are established as follows:

##### **7.2.5.1 Labor**

Contractor shall be allowed the documented payroll rates for each hour laborers and foremen actually shall be engaged in the Work. Contractor shall be allowed to receive an additional twenty five percent (25%) as compensation, based on the total wages paid said laborers and foremen. No charge shall be made by Contractor for organization or overhead expenses. For costs of premiums on public liability and workers compensation insurance(s), Social Security and unemployment insurance taxes, an amount equal to fifty five percent (55%) of the sum of the labor cost, excluding the twenty five percent (25%) documented payroll rate compensation allowed herein, shall be the established maximum allowable labor burden cost. No charge for superintendence will be made unless considered necessary and approved by Owner or a Change Order includes an extension of the Contract Time.

##### **7.2.5.2 Materials**

Contractor shall be allowed to receive the actual cost, including freight charges, for materials used on such Work, including an additional twenty

five percent (25%) of the actual cost as compensation. When material invoices indicate an available discount, the actual cost shall be determined as the invoiced price less the available discount.

### **7.2.5.3 Equipment**

For Contractor-owned machinery, trucks, power tools or other equipment, necessary for use on Change Order work, the Rental Rate Blue Book for Construction Equipment (hereafter referred to as “Blue Book”) rate, as modified by the following, will be used to establish Contractor’s allowable hourly rental rates. Equipment used shall be at the rates in effect for each section of the Blue Book at the time of use. The following formula shall be used to compute the hourly rates:

$$H = \frac{M \times R1 \times R2}{176} + OP$$

Where            H = Hourly Rate  
                      M = Monthly Rate  
                      R1 = Rate Adjustment Factor  
                      R2 = Regional Adjustment Factor  
                      OP = Operating Costs

If Contractor-owned machinery and/or equipment is not available and equipment is rented from an outside source, the hourly rate shall be established by dividing the actual invoice cost by the actual number of hours the equipment is involved in the Work. Owner reserves the right to limit the hourly rate to comparable Blue Book rates. When the invoice specifies that the rental rate does not include fuel, lubricants, repairs and servicing, the Blue Book hourly operating cost shall be allowed to be added for each hour the equipment operates. The allowable equipment hourly rates shall be paid for each hour that the equipment is involved in the Work and an additional maximum of fifteen percent (15%) may be added as compensation.

### **7.2.5.4 Subcontractor Markups**

Contractor will be allowed administrative cost only when extra work, ordered by Owner, is performed by a Subcontractor or Subcontractors. The maximum allowable payment for administrative cost will not exceed five percent (5%) of the total Subcontractor work. Off-duty peace officers and patrol cruisers shall be considered as Subcontractors, with regard to consideration of allowable contractor markups.

### **7.3.9 Field Work Directive Allowable Markups (Adds Section 7.3.9 to City’s General Conditions)**

Maximum allowable markups for Field Work Directives shall follow the allowable markups established in Section 7.2.5 herein.

### **8.2.2 Standby Equipment Costs (Added to Section 8.2.2 of City's General Conditions)**

Contractor shall be entitled to standby costs only when directed to standby in writing by Owner. Standby costs may include actual documented Project overhead costs of Contractor, consisting of administrative and supervisory expenses incurred at the Project Site. Standby equipment costs shall not be allowed during periods when the equipment would otherwise have been idle.

No more than eight (8) hours of standby time shall be paid during a 24-hour day, no more than forty (40) hours shall be paid per week for standby time and no more than one hundred and seventy six (176) hours per month shall be paid of standby time. Standby time shall be computed at fifty percent (50%) of the rates found in the Rental Rate Blue Book for Construction Equipment and shall be calculated by dividing the monthly rate found in the Blue Book by 176, then multiplying that total by the regional adjustment factor and the rate adjustment factor. Operating costs shall not be charged by Contractor.

### **10.11 Road Closures and Detour Routes (Adds Section 10.11 to City's General Conditions)**

Contractor shall not begin construction of the Project or close any streets until adequate barricades and detour signs have been provided, erected and maintained in accordance with the detour route and details shown on the Project Plans. Contractor shall notify Owner forty eight (48) hours in advance of closing any street to through traffic. Local traffic shall be permitted the use of streets under construction whenever feasible.

### **10.12 Use of City Streets (Adds Section 10.12 to City's General Conditions)**

Contractor shall confine the movements of all steel-tracked equipment to the limits of the Project Site and any such equipment shall not be allowed use of Owner's streets unless being transported on pneumatic-tired vehicles. Any damage to Owner's streets caused by Contractor and/or Contractor's equipment, either outside the limits of the Project site or within the limits of the Project site but not within the limits of the current phase then being constructed, shall be repaired by Contractor at its own expense and as prescribed by Owner's specifications and direction. If Contractor can not or refuses to repair street damage caused by Contractor and/or Contractor's equipment, Owner may perform the repairs and all expenses incurred by Owner in performing the repairs shall be deducted for any money due or owed to Contractor.

### **10.13 Maintenance of Traffic (Adds Section 10.13 to City's General Conditions)**

In accordance with the approved traffic control plan and as specified in the Contract, Contractor shall:

- (1) keep existing roadways open to traffic or construct and maintain detours and temporary structures for safe public travel;
- (2) maintain the Work in passable condition, including proper drainage, to accommodate traffic;
- (3) provide and maintain temporary approaches and crossings of intersecting roadways in a safe and passable condition;
- (4) construct and maintain necessary access to adjoining property as shown in the plans or as directed by Owner; and
- (5) furnish, install and maintain traffic control devices in accordance with the Contract.

The cost of maintaining traffic will be subsidiary to the Project and will not directly be paid for by Owner, unless otherwise stated in the Plans and Specifications. Owner will notify Contractor if Contractor fails to meet the above traffic requirements. Owner may perform the work necessary for compliance, but any action n by Owner shall not change the legal responsibilities of Contractor, as set forth in the Contract Documents. Any costs incurred by Owner for traffic maintenance shall be deducted from money due or owed to Contractor.

#### **10.14 Abatement and Mitigation of Excessive or Unnecessary Construction Noise (Adds Section 10.14 City's General Conditions)**

Contractor shall ensure abatement and mitigation of excessive or unnecessary construction noise to the satisfaction of Owner and as prescribed by all applicable state and local laws.

#### **10.15 Incidental Work, Connections, and Passageways (Adds Section 10.15 City's General Conditions)**

Contractor shall perform all incidental Work necessary to complete and comply with this Contract including, but not limited to the following:

- (1) Contractor shall make and provide all suitable reconnections with existing improvements (generally excluding new connections with or relocation of utility services, unless specifically provided for otherwise in the Contract Documents) as are necessarily incidental to the proper completion of the Project;
- (2) Contractor shall provide passageways or leave open such thoroughfares in the Work Site as may be reasonably required by Owner; and
- (3) Contractor shall protect and guard same at its own risk and continuously shall maintain the Work Site in a clean, safe and workmanlike manner.

**SAN ANTONIO WATER SYSTEM  
WATERWORKS AND SANITARY SEWER CONSTRUCTION  
SPECIAL CONDITIONS**

The following changes are made to the Contract Documents:

1. Add to the Contract Definitions

San Antonio Water System: San Antonio Water System Board of Trustees.

1. Add to the Invitation for Bid

The San Antonio Water System area of construction operations is coincident with the area of construction operations specified in the contract documents for the project. All water and sewer facility adjustment and attendant work as shown on the Plans is considered to be an integral part of the project, and the Contractor shall be responsible for the timely scheduling and accomplishment of all water and sewer main and attendant work in conjunction with the work outlined in paragraph 1 of the City of San Antonio Invitation for Bid.

2. Add to the General Conditions

All resident inspection of water and sewer facility adjustment and attendant work will be performed by an authorized representative of the San Antonio Water System who will in turn be responsible directly to the inspectors designated above.

3. Add to the General Conditions Paragraph

Materials for Water and Sanitary Sewer Main Replacement and adjustments: The Contractor shall also furnish all materials required for the installation of all water and sanitary main replacement and adjustments, service lines, sanitary sewer laterals, manholes and attendant work as shown on the drawings and in accordance with the San Antonio Water System Material Specifications.

4. Add to General Conditions

Water Mains: The Contractor shall be responsible for the establishment in the field of all lines and grades for water works construction utilizing as may be appropriate the survey base control data provided by the Engineer for the work indicated in Paragraph 1 of the City of San Antonio Invitation for Bid. All construction staking, additional survey, layout and measurement work shall also be performed by the Contractor as part of his work.

5. Add to the General Conditions

Warranty/Correction Period for Water and Sewer Works: During a period of 24 months from and after the date of the final acceptance by the San Antonio Water System of the water and waste water work completed by and through this contract, the Contractor shall make all needed repairs arising out of defective workmanship or materials, or both, which in the judgment of the San Antonio Water System shall become necessary during such period. If within 3 days after the receipt of a notice in writing to the Contractor or his agent, the Contractor shall neglect to make or to undertake with due diligence the aforesaid repairs, the San Antonio Water System is hereby authorized to make such repairs at the Contractor's expense. In case of an emergency where, in the judgment of the San Antonio Water System delay would cause a serious loss or damage, repairs may be made with notice being sent to the Contractor, and the Contractor shall pay the cost thereof.

6. Add to these Contract Documents, the Standard Specifications for Water and Sanitary Sewer Construction, available to the Contractor at the San Antonio Water System or at [www.saws.org](http://www.saws.org).
7. Add to these Contract Documents, the San Antonio Water System Special Provisions, attached separately.
8. Add to these Contract Documents, the San Antonio Water System Proposals, attached separately.
9. Add to the General Conditions for Article 7 - Changes in Work for San Antonio Water Systems work that is joint bid the COSA the following will apply

Change Orders allowable markups for SAWS work is as follows:

**ACTUAL COST OF THE WORK** – Actual Cost incurred by the Contractor to perform the additional Work. Contractor shall provide a complete breakdown of the actual costs to the Owner on a daily basis as follows:

Labor including Foremen

Materials comprising the Work.

The Contractor's actual incremental ownership or rental cost of equipment during the time of use on the extra Work. (Rental cost may be based on current Southwest Regional AGC, Association of Equipment Distributors regional computations or equivalent)

Power and consumable supplies for the operation of power equipment.

Insurance, any extra bond premiums, Social Security and unemployment contributions, and benefits.

**PARTICIPATION ALLOWANCE**

<u>Participant</u>	<u>Overhead</u>	<u>Profit</u>	<u>Commission</u>
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To Contractor on his Project on Work performed by other than his own forces:	0%	0%	5%
------------------------------------------------------------------------------	----	----	----

To first tier Subcontractor on Work performed by his subtier Subcontractors:	0%	0%	5%
------------------------------------------------------------------------------	----	----	----

To Contractor and/or the first tier Subcontractors for that portion of the Work performed with their own respective forces:	10%	10%	0%
-----------------------------------------------------------------------------------------------------------------------------	-----	-----	----

Not more than four categories of percentages, not to exceed the maximum percentages shown above, will be allowed regardless of the number of subtier subcontractors: For proposals covering both increases and decreases in the amount of the Contract, the application of overhead and profit percentages shall be on the net increase in Actual for the Contractor or Subcontractor performing the Work. However, where the Contractor or first tier Subcontractor receives proposals for additive and deductive amounts from separate subtier subcontractors, the commission shall be allowed on the added amounts prior to subtraction of the credit amounts. The cost of such extra Work shall be added to the Contract Sum by a Written Change Order

The remaining Article 7 remains as per the COSA General Conditions.

PERFORMANCE BOND

STATE OF TEXAS )  
COUNTY OF BEXAR )  
CITY OF SAN ANTONIO )

Know all men by these presents:

1. That we \_\_\_\_\_,

as Principal, and \_\_\_\_\_,  
as Sureties, do hereby acknowledge ourselves to be held and firmly bound unto the City of San Antonio, a municipal corporation of the County of Bexar and State of Texas in the sum of \$\_\_\_\_\_ for payment of which sum well and truly to be made in and unto said City of San Antonio, we do hereby bind and obligate ourselves, our heirs, executors, administrators, assigns, and successors, jointly and severally:

2. THE CONDITIONS OF THIS BOND, HOWEVER, ARE SUCH THAT WHEREAS, the said \_\_\_\_\_

hereinafter called Contractor or Principal, has made and does this day make and enter into a certain contract in writing with said City of San Antonio, for the construction and completion for said City of certain structures, work and improvements generally described as \_\_\_\_\_

(Insert Name and Location of Project)

and for the performance and observance of diverse other matters and things in connection with said work; all as more fully described in said contract and its included instruments which are expressly made a part of this obligation.

3. NOW THEREFORE, if Contractor, the principal party to this obligation shall faithfully construct and complete said structures, work and improvements, and shall observe, perform and comply with all the terms, conditions, stipulations, undertakings and provisions of said contract and all included instruments, according to their intent and purpose insofar as the same relate to or are incident to the construction and completion of said structures, work and improvements then and thereupon this obligation shall be and become null and void, but otherwise to remain in full force and effect; and it is hereby further understood and agreed that this bond shall be a continuous obligation against the principal and each member of said principal party hereto, and each and all sureties hereon, and that successive recoveries may be had hereon for each and every breach of this bond until the full amount thereof shall have been exhausted; and the liability of the sureties on this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by the City, nor by the exercise or failure to exercise by or on behalf of the City any right or remedy provided by the contract or specifications or by any law or ordinance.

4. It is further understood that this obligation is incurred pursuant to Chapter 2253 of the Texas Government Code as amended, and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein.

5. IN TESTIMONY WHEREOF, witness our hands and the seal of any incorporated surety hereon this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20 \_\_\_\_\_.

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_  
(Typed Name)

\_\_\_\_\_  
( Surety)

By: \_\_\_\_\_  
(Typed Name)

(SEAL)

\_\_\_\_\_  
\_\_\_\_\_

Address of Surety for Service Purposes

PAYMENT BOND

STATE OF TEXAS )
COUNTY OF BEXAR )
CITY OF SAN ANTONIO )

Know all men by these presents:

1. That we \_\_\_\_\_,

as Principal, and \_\_\_\_\_
as Sureties, do hereby acknowledge ourselves to be held and firmly bound unto the City of
San Antonio, a municipal corporation of the County of Bexar and State of Texas in the sum of \$\_\_\_\_\_ for
payment of which sum well and truly to be made in and unto said City of San Antonio, we do hereby bind and obligate
ourselves, our heirs, executors, administrators, assigns, and successors, jointly and severally:

2. THE CONDITIONS OF THIS BOND, HOWEVER, ARE SUCH THAT WHEREAS, the said

\_\_\_\_\_
hereinafter called Contractor or Principal, has made and does this day make and enter into a certain contract in writing with
said City of San Antonio, for the construction and completion for said City of certain structures, work and improvements
generally described as

(Insert Name of Project and Location)

and for the performance and observance of diverse other matters and things in connection with said work, and, interalia,
therein entered into covenants and agreements to promptly pay all persons supplying labor, materials and services in the
prosecution of the work provided for in said contract; all as more fully described in said contract and its included
instruments which are expressly made a part of this obligation;

3. NOW THEREFORE, if Contractor, the Principal party to this obligation shall promptly make payment to all persons
supplying labor and materials in the prosecution of the work provided for in said contract, and any and all duly authorized
modifications of said contract that may hereafter be made, notice of which modifications to the surety being hereby waived,
then this obligation shall be and become null and void, but otherwise to remain in full force and effect: and it is hereby
further understood and agreed that this bond shall be a continuous obligation against the principal and each member of said
principal party hereto, and each and all sureties hereon, and that successive recoveries may be had thereon for each and
every breach of this bond until the full amount thereof shall have been exhausted; and the liability of the sureties on this
bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by
the City, nor by the exercise or failure to exercise by or on behalf of the City any right or remedy provided by the contract or
specifications or by any law or ordinances.

4. It is further understood that this obligation is incurred pursuant to Chapter 2253 of the Texas Government Code, and
that this obligation is for the benefit and sole protection of all persons supplying labor and materials in the prosecution of
said contract.

5. IN TESTIMONY WHEREOF, witness our hands and the seal of any incorporated surety hereon this \_\_\_\_\_ day of
\_\_\_\_\_ A.D. 20 \_\_\_\_\_.

(Contractor)

By: \_\_\_\_\_
(Typed Name) \_\_\_\_\_

(Surety)

By: \_\_\_\_\_
(Typed Name) \_\_\_\_\_

(SEAL)

Address of Surety for Service Purposes



Crane, Lattice Boom over	
80 tons.....	\$ 19.38
Crawler Tractor.....	\$ 15.67
Directional Drilling	
Locator.....	\$ 11.67
Directional Drilling	
Operator.....	\$ 17.24
Excavator 50,000 lbs or	
Less.....	\$ 12.88
Excavator over 50,000 lbs...	\$ 17.71
Foundation Drill, Truck	
Mounted.....	\$ 16.93
Front End Loader, 3 CY or	
Less.....	\$ 13.04
Front End Loader, Over 3 CY.	\$ 13.21
Loader/Backhoe.....	\$ 14.12
Mechanic.....	\$ 17.10
Milling Machine.....	\$ 14.18
Motor Grader, Fine Grade....	\$ 18.51
Motor Grader, Rough.....	\$ 14.63
Pavement Marking Machine....	\$ 19.17
Reclaimer/Pulverizer.....	\$ 12.88
Roller, Asphalt.....	\$ 12.78
Roller, Other.....	\$ 10.50
Scraper.....	\$ 12.27
Spreader Box.....	\$ 14.04
Trenching Machine, Heavy....	\$ 18.48
Servicer.....	\$ 14.51
Steel Worker	
Reinforcing.....	\$ 14.00
Structural.....	\$ 19.29
TRAFFIC SIGNAL INSTALLER	
Traffic Signal/Light Pole	
Worker.....	\$ 16.00
TRUCK DRIVER	
Lowboy-Float.....	\$ 15.66
Off Road Hauler.....	\$ 11.88
Single Axle.....	\$ 11.79
Single or Tandem Axle Dump	
Truck.....	\$ 11.68
Tandem Axle Tractor w/Semi	
Trailer.....	\$ 12.81
WELDER.....	\$ 15.97

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

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

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

#### Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters, PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rate.

#### Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

-----  
**WAGE DETERMINATION APPEALS PROCESS**

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

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter

\* a conformance (additional classification and rate) ruling

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

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

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

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

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

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

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

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

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

=====  
END OF GENERAL DECISION



## CITY OF SAN ANTONIO SUBCONTRACTOR/SUPPLIER UTILIZATION PLAN

SOLICITATION NAME: **Creighton Street Improvements Project**

RESPONDENT NAME:

SOLICITATION API: **Small Business Enterprise (SBE) Subcontracting AND Minority/Woman Enterprise (MWBE) Subcontracting Programs**

**API REQUIREMENTS:** Respondents must demonstrate commitment to satisfy a **twenty-five percent (25%) SBE subcontracting goal AND a fifteen percent (15%) MWBE subcontracting goal**. Self-performance by S/M/WBE prime respondents does not count toward these subcontracting goals. **In the absence of a waiver granted by the Small Business Office, failure of a Respondent to commit to satisfying the SBE and MWBE subcontracting goals shall render its response NON-RESPONSIVE.**

S/M/WBEs must be certified with the South Central Texas Regional Certification Agency **and** be headquartered or have Significant Business Presence in the San Antonio Metropolitan Statistical Area to satisfy the above-stated goals. For further clarification, please contact Thomas Davis, at (210) 207-8124.

Section 1. Enter Respondent's (Prime) proposed contract participation level. Leave blank for revenue generating contracts.

Section 2. List ALL subcontractors / suppliers that will be utilized for the entire contract period, excluding possible extensions and renewals. Use additional sheets if necessary.

	PARTICIPATION DOLLAR AMOUNT	% LEVEL OF PARTICIPATION	CERTIFICATION TYPE AND NUMBER	TYPE OF WORK TO BE PERFORMED (BY NIGP CODE)
<b>SECTION 1. PRIME</b>				
Name:	\$	%	#:	
<b>SECTION 2. SUBCONTRACTOR(s):</b>				
1. Name:	\$	%	#:	
2. Name:	\$	%	#:	
3. Name:	\$	%	#:	
4. Name:	\$	%	#:	
5. Name:	\$	%	#:	
Total Prime Participation:	\$	%	#:	
Total Sub Participation:	\$	%	#:	
Total Prime & Sub Participation:	\$	%	#:	
Total Certified Sub Participation:	\$	%	#:	

If a business is not certified, please call the Small Business Program Office at (210) 207-3900 for information and details on how subcontractors and suppliers may obtain certification.

**I HEREBY AFFIRM THAT I POSSESS DOCUMENTATION FROM ALL PROPOSED SUBCONTRACTORS/SUPPLIERS CONFIRMING THEIR INTENT TO PERFORM THE SCOPE OF WORK FOR THE PRICE INDICATED ABOVE. I FURTHER AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND AND AGREE THAT, IF AWARDED THE CONTRACT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.**

\_\_\_\_\_  
**SIGNATURE OF AUTHORIZED AGENT**

\_\_\_\_\_  
**TITLE**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**PHONE**

\*\*\*\*\*

**FOR CITY USE**

**Action Taken:**                      **Approved** \_\_\_\_\_                      **Denied** \_\_\_\_\_

\_\_\_\_\_  
**DIRECTOR  
ECONOMIC DEVELOPMENT DEPARTMENT**

**CITY OF SAN ANTONIO, TEXAS**  
**GOVERNING SPECIFICATIONS, SPECIAL SPECIFICATIONS,**  
**AND SPECIAL PROVISIONS**  
**FOR**  
**CREIGHTON AVENUE ROADWAY RECONSTRUCTION**  
**FROM SOUTHCROSS TO QUINTANA**

Standard Specifications and Special Specifications applicable to this project are identified as follows:

**CITY OF SAN ANTONIO STANDARD SPECIFICATIONS  
FOR CONSTRUCTION DATED (JUNE 2008)**  
(Available online at <http://www.sanantonio.gov/cims/standardspecificationsV2.asp>)

<b>ITEM NO.</b>	<b>DESCRIPTION</b>
<b>DIVISION I - EARTHWORK</b>	
100	MOBILIZATION
101	PREPARING RIGHT-OF-WAY
103	REMOVE CONCRETE
104	STREET EXCAVATION
108	LIME TREATED SUBGRADE
<b>DIVISION II – BASE &amp; SURFACE COURSES</b>	
202	PRIME COAT
203	TACK COAT
205	HOT MIX ASPHALTIC CONCRETE PAVEMENT
210	ROLLING
220	BLADING
<b>DIVISION III – CONCRETE &amp; CONCRETE STRUCTURES</b>	
300	CONCRETE
301	REINFORCING STEEL
303	WELDED WIRE FLAT SHEETS
307	CONCRETE STRUCTURES

## **DIVISION V – INCIDENTAL CONSTRUCTION**

- 500 CONCRETE CURB, GUTTER, AND CONCRETE CURB AND GUTTER
- 502 CONCRETE SIDEWALKS
- 503 ASPHALTIC CONCRETE, PORTLAND CEMENT CONCRETE, AND GRAVEL DRIVEWAYS
- 506 CONCRETE RETAINING WALL – COMBINATION TYPE
- 507 CHAIN LINK WIRE FENCE
- 508 RELOCATING WIRE FENCE
- 515 TOPSOIL
- 516 SODDING
- 523 ADJUSTING OF VEHICULAR & PEDESTRIAN GATES
- 526 FIELD OFFICE
- 530 BARRICADES, SIGNS, AND TRAFFIC HANDLING
- 531 SIGNS
- 540 TEMPORARY EROSION, SEDIMENTATION AND WATER POLLUTION PREVENTION AND CONTROL
- 556 CAST IN PLACE DETECTABLE WARNING SURFACE TILES

## **PROJECT SCHEDULING AND DATA MANAGMENT**

- 700 COST LOADED PROJECT SCHEDULES
- 1000 WEB PORTAL

**SPECIAL SPECIFICATIONS**

(Included Herein)

- 799 SPEED HUMPS, TYPE II, MODLAR RUBBER CUSHIONS
- 800 PROJECT SIGNS
- 801 TREE AND LANDSCAPE PROTECTION
- 802 TREE PRUNING, SOIL AMENDING AND FERTILIZATION
- 2000 REMOVE AND REPLACE BRICK COLUMN
- 2100 REMOVE AND REPLACE WOOD FENCE
- 2200 REMOVE AND REPLACE SPEED BUMP

**SPECIAL PROVISIONS (MAY 2009)**

(Available online at <http://www.sanantonio.gov/cims>)

- 502 CONCRETE SIDEWALKS
- 503 ASPHALTIC CONCRETE, PORTLAND CEMENT CONCRETE, AND GRAVEL DRIVEWAYS

**SPECIAL PROVISIONS (FEBRUARY 2010)**

(Available online at <http://www.sanantonio.gov/cims>)

- 700 PROJECT SCHEDULES

**SPECIAL PROVISIONS (JUNE 2010)**

(Available online at <http://www.sanantonio.gov/cims>)

- 526 FIELD OFFICE

**ITEM 799**  
**SPECIAL SPECIFICATION**

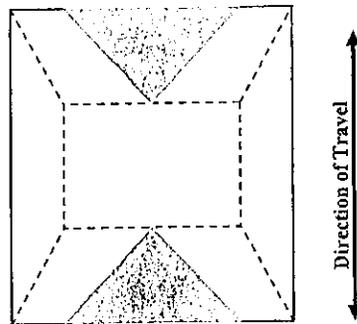
**SPEED HUMPS, TYPE II**  
**MODULAR RUBBER CUSHIONS**

**GENERAL:**

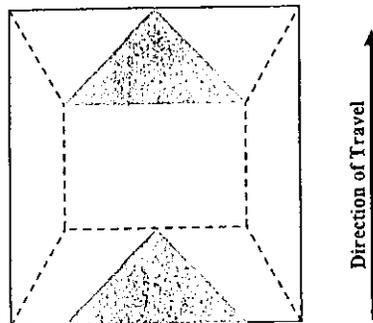
This specification sets forth the minimum acceptable requirements for modular rubber cushions for use at approved speed hump locations.

**GENERAL REQUIREMENTS:**

1. Pre-formed components manufactured from rubber
  - 1.1. Each component unit shall be 3" high
  - 1.2. The side gradient shall be between 1:4 and 1:8
  - 1.3. The ramp gradient shall be between 1:8 and 1:10
  - 1.4. The transition from the street shall not exceed ½ inch
  - 1.5. The cushion length shall be a minimum 78 inches
  - 1.6. The cushion width shall be 74 to 75 inches
  - 1.7. The cushions shall be black in color
  - 1.8. The markings shall be white in color, triangular in shape, and integral to the pre-formed rubber components
    - 1.8.1. Type A markings (not to scale)



- 1.8.2. Type B markings (not to scale)



- 1.9. Shore hardness shall be a minimum of 65. The manufacturer shall provide test data from an independent test lab confirming the product meets the minimum criteria with

the bid submittal. Test data shall be provided for each shipment. An outline of the testing procedures shall be provided for review and approval with the bid submittal.

- 1.10. Tensile strength shall be a minimum of 500 psi. The manufacturer shall provide test data from an independent test lab confirming the product meets the minimum criteria. The test data shall be provided for each shipment. An outline of the testing procedures shall be provided for review and approval with the bid submittal.
- 1.11. The riding surface shall be smooth in texture for the duration of the warranty period, at a minimum, as determined by the City Inspector.
2. Rigid reinforcement perpendicular to the flow of traffic
3. Sufficient stainless/galvanized steel mounting bolts or hex head screws/fasteners per cushion
  - 3.1. Minimum 10mm x 100mm or equivalent
4. Plastic or nylon screw anchors
  - 4.1. Minimum 14mm x 75mm or equivalent
5. Metal washers
  - 5.1. Minimum 10mm or equivalent
6. Quick-set, two component epoxy/adhesive. Contractor shall submit manufacturer's material specifications for review and approval with the bid submittal.
7. Rubber/nylon caps/plugs

#### **WARRANTY:**

The speed cushion and all associated equipment shall be fully warranted against defects and/or failure in design, material and workmanship in accordance with the manufacturer's standard warranty, or for a minimum of two (2) years from the date of final acceptance, whichever is greater. All material supplied shall have no less than one hundred percent (100%) of the manufacturer's standard warranty remaining on the date that the material invoices are submitted for payment. Any material with less than 100 percent (100%) of its warranty remaining will not be accepted by the City.

**ITEM 800**

**PROJECT SIGNS**

**800.1 DESCRIPTION:** This item shall consist of providing, installing, maintaining and (at the completion of the project) removing two (2) 4' X 8' project signs. The signs shall conform to the configuration and details indicated in a special sheet in the project specifications titled PROJECT SIGN DETAILS. These signs shall be installed at locations to be determined by the inspector.

**800.2 MATERIAL:** The signs shall be made of 3/4" plywood, grade A-C or better and each shall be mounted on two (2) 4" X 4" X 12' - 0" posts.

**800.3 INSTALLATION:** The installation will require embedding all posts a minimum of 3' - 0" below the ground.

**800.4 PAYMENT:** No direct payment will be made to the contractor for the work and materials required in providing, installing, maintaining and removing the signs. Such work and materials shall be considered subsidiary to the several items of work for which unit prices are provided in the proposal.

## ITEM 801

### **TREE AND LANDSCAPE PROTECTION**

This item shall govern the placing of protection for trees and other landscape plant material or natural areas to be protected during construction. No site preparation work shall begin in areas where tree preservation and treatment measures have not been completed and approved. *Where removal of trees is indicated on the drawings, they shall be marked as directed by the engineer or designated representatives.* This item shall also govern the excavation, filling, *trenching and boring* around trees described on the plans, and for furnishing all materials, water, labor, tools, equipment and supplies required as specified by this item or as indicated on the plans.

Reference Standards: City of San Antonio Tree Preservation ordinance # 85262

#### **MATERIALS:**

##### **LEVEL I FENCE PROTECTION (Detail 1.1.2):**

Fabric: Fabric (4 foot height or 1.2 m) shall consist of orange plastic fencing as shown on the plans and shall be woven with 2-inch (50 mm) mesh openings such that in a vertical dimension of 23 inches (584 mm) along the diagonals of the openings there shall be at least seven meshes.

1. Installation Posts: Installation posts shall be a minimum of 72 inches (1.5 m) long and steel "T" shaped with a minimum weight of 1.3 pounds per linear foot (6.3 kg per meter).
2. Tie Wire: Wire for attaching the fabric to the t-posts shall be not less than No. 12 gauge galvanized wire. Sufficient fastening material shall be furnished to provide for the securing of the fabric to the "T" line posts.
3. Used Materials: Previously-used materials, meeting the above requirements and when approved by the Engineer, may be used.

##### **LEVEL IIA FENCE PROTECTION (Detail 1.1.3):**

Materials same as Level I -OR-

##### **LEVEL IIB FENCE PROTECTION (Detail 1.1.4):**

1. Sleeve: 2x4 lumber to a height of 4 feet above the root crown.
2. 2x4 shall be utilized as called for on plan.
3. Tie Wire: Wire for securing the 2x4s shall not be less than No. 12 gauge.

#### **OTHER MATERIALS:**

1. Tree Dressing - Asphaltic Tree Wound Paint

#### **CONSTRUCTION METHODS:**

##### **LEVEL I FENCE PROTECTION:**

All trees and shrubs in the proximity of the construction site shall be protected prior to beginning any development activity.

Protective fencing shall be erected outside the dripline at locations shown in the plans or as directed by the Inspector and/or City Arborist or in accordance with the details shown on the plans at the drip line of trees (Root Protection Zone, RPZ) and/or landscape plant material including natural areas. Fencing shall be maintained and repaired by the contractor during site construction.

Protective fence locations in close proximity to street intersections or drives shall adhere to the City of San Antonio's site distance criteria.

The protective fencing shall be erected before site work commences and shall remain in place during the entire construction phase. Access to fenced areas will be permitted only with the approval of the engineer.

The installation posts will be placed every 6 feet (2 m) around the drip line or RPZ and embedded to 18 inches (457 mm) deep. Fabric attachment shall be attached to the installation posts by the use of sufficient wire ties to securely fasten the fabric to the "T" posts as to hold the fabric in a stable and upright position.

1. Do not clear, fill or grade in the RPZ of any tree.
2. Do not store, stockpile or dump any job material, soil or rubbish under the spread of the tree branches.
3. Do not park or store any equipment or supplies under the spread of the tree branches.
4. Do not set up any construction operations under the spread of the tree branches. (E.g. pipe cutting and threading, mortar mixing, painting or lumber cutting)
5. Do not nail or attach temporary signs, meters, switches, wires, bracing or any other item to the trees.
6. Do not permit runoff from waste materials including solvents, concrete washouts, asphalt tack coats (MC-30 oil), etc. to enter the RPZ. Barriers are to be provided to prevent such runoff substances from entering the RPZ whenever possible, including in an area where rain or surface water could carry such materials to the root system of the tree.

The contractor shall avoid cutting roots larger than one inch in diameter when excavation occurs near existing trees. Excavation in the vicinity of trees shall proceed with caution. The contractor shall contact the city inspector.

Remove all trees, shrubs or bushes to be cleared from protected root zone areas as directed by engineer by hand.

Trees damaged or lost due to contractor's negligence during construction shall be mitigated at the contractor's expense and to the engineer's satisfaction.

Any tree removal shall be approved by the city arborist prior to its removal.

Cover exposed roots at the end of each day with soil, mulch or wet burlap.

*In critical root zone areas that cannot be protected during construction and where heavy traffic is anticipated, cover those areas with (8) inches of organic mulch to minimize soil compaction. This (8) inch depth of mulch shall be maintained throughout construction.*

*Water all trees, most heavily impacted by construction activities, deeply once a week during periods of hot dry weather. Spray tree crowns with water periodically to reduce dust accumulation on the leaves.*

*When installing concrete adjacent to the root zone of a tree, use a plastic vapor barrier behind the concrete to prohibit leaching of lime into the soil. See related specifications.*

*When an excavation or embankment is placed within the dripline of any tree greater than (8) inches in diameter, a tree well shall be constructed to protect the tree as indicated, when the cut or fill exceeds (8) inches. See related specifications.*

*Where paving or filling is necessary within the dripline of any tree (8) inches or greater, a permeable pavement and aeration system must be installed as indicated. See related specifications.*

## **CONSTRUCTION METHODS:**

### **LEVEL II A FENCE PROTECTION:**

Protective fencing shall be erected within the RPZ at locations shown in the plans or as directed by the Inspector and/or City Arborist or in accordance with the details shown on the plans at the drip line of trees (Root Protection Zone, RPZ) and/or landscape plant material including natural areas. Fencing shall be maintained and repaired by the contractor during site construction.

Fabric: Fabric (4 foot height or 1.2 m) shall consist of orange plastic fencing as shown on the plans and shall be woven with 2-inch (50 mm) mesh openings such that in a vertical dimension of 23 inches (584 mm) along the diagonals of the openings there shall be at least seven meshes.

1. Installation Posts: Installation posts shall be a minimum of 72 inches (1.5 m) long and steel "T" shaped with a minimum weight of 1.3 pounds per linear foot (6.3 kg per meter).
2. Tie Wire: Wire for attaching the fabric to the t-posts shall be not less than No. 12 gauge galvanized wire. Sufficient fastening material shall be furnished to provide for the securing of the fabric to the "T" line posts.
3. Used Materials: Previously-used materials, meeting the above requirements and when approved by the Engineer, may be used.

### **LEVEL II B FENCE PROTECTION:**

Trunk protection shall be erected at locations shown in the plans or as directed by the Inspector and/or City Arborist shall be maintained and repaired by the contractor during site construction.

1. Installation Sleeve: 2x4 lumber to a height of 4 feet above the root crown.
2. Tie Wire for securing the 2x4s shall not be less than No. 12 gauge

### **MEASUREMENT:**

Protective fencing will be measured by the linear foot of accepted work, complete in place for the duration of construction activity.

### **PAYMENT:**

Tree and Landscape Protective Fencing will be paid for at the unit price bid per linear foot (meter), which price shall be full compensation for furnishing and placing all materials, manipulation, labor, tools, equipment and incidentals necessary to complete the work.

## **BID ITEMS**

Item 801.1: Level I Protective Fencing - per linear foot (meter)

Item 801.2: Level IIA Protective Fencing - per linear foot (meter)

Item 801.3: Level IIB Protective Fencing - per linear foot (meter)

## ITEM 802

### TREE PRUNING, SOIL AMENDING AND FERTILIZATION

#### PART 1 GENERAL

##### 1.01 DESCRIPTION:

The purpose of this specification is to describe a procedure for maintaining preserved trees before, during and after construction and for furnishing all materials, water, labor, tools, equipments and supplies required as specified by this item or as indicated on the plans.

##### 1.02 REFERENCE STANDARDS:

The contractor shall comply with the applicable provisions and recommendations of the publication listed below and these shall be utilized as reference standards, and form a part of this specification to the extent indicated by reference:

American National Standard Institute - ANSI A300-2002

#### PART 2 PRODUCTS

##### 2.01 MATERIALS:

1. Tree pruning paint: Any latex, oil or asphalt base wound dressing.
2. Soil amendment: Organic soil amendment with nitrogen content 10% or less.
3. Commercial fertilizer: Urea form based liquid suspension, which is soil injected. Salt Index is less than 3.5 (True Green, Boost) and a longevity period of up to 2 years.
4. Mulch: Shredded wood residue with size of pieces not more than 6 inches in length.
5. Water-By truck for trees.

#### PART 3 EXECUTION

##### 3.01 CARE OF TREES PRIOR TO AND DURING CONSTRUCTION:

1. Prior to erecting tree enclosure and the start of any phase of construction, arborist will provide mycorrhizal inoculation and deep root fertilization to the tree roots, using 3 lbs. of actual nitrogen per 1000 square feet of root area in a slow release soil injection method. Then a certified arborist will perform pruning before construction to remove dead wood, improve the health of the trees to better tolerate the stresses endured during construction activities. In addition all pruning shall adhere to the standard practices in the American National Standard Institute ANS/A300-1995, and to improve the level of safety
  - a. Crown Cleaning – shall consist of the removal of dead, dying, and diseased wood one inch in diameter and greater. Many of the existing trees are above and within the proposed walkway. This dead wood shall be removed to improve safety and liability issues.
2. No site preparation work shall begin in areas where tree preservation and treatment measures have not been completed and approved.
  - a. Crown Raising – shall consist of removing lower limbs to provide a clearance specification of 8 feet over walkways and 13 feet over the

main road for vehicle clearance. Branches may be tied back instead of removed, in order to alleviate conflict. These specifications should protect the existing trees. Tree contractor is to be briefed by Project Engineer/Arborist prior to project commencement. All pruning and removals shall be overseen by a Certified Arborist. The awarded company shall have a Certified Arborist on staff to be able to bid on this Project.

3. No pruning or removal of limbs shall be allowed to provide clearance for work unless approved by the engineer.
4. Removal of limbs which are 6 inches in diameter or greater is prohibited without consent of the City Arborist. Occasional branches, up to 1/4 inch in diameter, which are dead, dying, diseased may remain when it is not practical to remove it.
5. Oak wounds must be painted with wound paint within 30 minutes to prevent infection of the Oak Wilt fungal organism.
6. Soil amendments will be applied within the drip line (RPZ).
7. Soil fertilization will be completed by a soil injection method, which will occur at a spacing of 3 feet on center around the tree within the drip line (Root Protection Zone, RPZ) only for those trees specified.
8. Excavate within drip line of trees only where required. Where excavating for new construction is required within drip line of trees, hand excavate to minimize damage to root systems. Use narrow spading forks and comb soil to expose roots. Relocate roots back into backfill areas wherever possible. If large main lateral roots are encountered, expose beyond excavation limits as required to bend and relocate without breaking. If root relocation is not practical, then contact Client representative for approval to cut roots 1/2" or greater. If approved, clean cut roots using handsaw or chainsaw approximately 3 inches back from new construction. Where existing grade is above new finish grade, carefully excavate within the drip line to the new finish grade. Carefully hand excavate an additional 8 inch below the finish grade. Use narrow line spading forks to comb the soil to expose the roots and prune the exposed root structure as recommended by the Arborist. After pruning and treatment is complete, backfill to within the finish grade with 8" of approved landscape fill material. Temporarily support and protect roots against damage until permanently relocated and do not allow exposure of root to air to occur beyond 12 hours. Cover with damp soil, peat moss, 8"bark or gunny sacks in order to keep moist so as not to dry out and permanently cover roots as soon as possible. Where it has been determined that trenching for utilities can seriously impact the roots of a desirable tree, then bore or tunnel under tree to minimize root impact.
9. The Contractor shall be responsible for coordinating all construction activities that may impact trees with clients representative and the Arborist, who will do the necessary pruning and deep root fertilization deemed necessary by the Arborist.

### **3.02 POST CONSTRUCTION CARE OF TREES:**

1. The Contractor shall water when it is necessary to supplement natural rainfalls required preventing excess drying of the tree root area.

2. The Contractor is responsible for a fall and spring fertilization of the following year using a deep root fertilization method on trees deemed necessary by the Client.
3. The Contractor shall perform post construction care under the supervision of the arborist.

### **3.03 QUALITY ASSURANCE:**

All tree pruning and fertilization work shall be performed by a single firm specializing in tree pruning work, with a minimum of 3 years experience in the acceptable performance of similar work to that specified. Pruning is to be performed by personnel who, by training and on the job experience, are familiar with the techniques and hazards of this work. The firm performing the work shall have the following minimum qualifications and certifications.

NAA - National Arborist Association Certified or  
ISA - International Society of Arborists Certification  
Be licensed for application and use of pesticides  
Meet state requirements for insurance  
Must be bonded

The Arborist shall:

- a. Establish lines of communication for all work which may potentially impact trees, under story, or areas that are to be protected from construction activity.
- b. Locate and properly identify or mark in the field trees, under story and areas that are to be protected from construction activity and are the responsibility of the Prime Contractor to protect.
- c. Identify limits and extent of protective fencing around these trees, under story vegetation and other areas.

### **LEVEL II:**

#### **3.04 CARE OF TREES PRIOR TO AND DURING CONSTRUCTION:**

1. Prior to erecting tree enclosure and the start of any phase of construction; provide mycorrhizal inoculation and deep root fertilization to the tree roots, using 3 lbs. of actual nitrogen per 1000 square feet of root area. Then pruning will be performed by a certified arborist before construction to remove dead wood, improve the health of the trees to better tolerate the stresses endured during construction activities. In addition all pruning shall adhere to the standard practices in the American National Standard Institute ANS/A300-1995, and to improve the level of safety
2. No site preparation work shall begin in areas where tree preservation and treatment measures have not been completed and approved.
3. No pruning or removal of limbs shall be allowed to provide clearance for work unless approved by the engineer.
4. Removal of limbs which are 6 inches in diameter or greater is prohibited without consent of the City Arborist. Occasional branches, up to 1/4 inch in diameter, which are dead, dying, diseased may remain when it is not practical to remove it.
5. Oak wounds must be painted with wound paint within 30 minutes to prevent infection of the Oak Wilt fungal organism.

6. Excavate within drip line of trees only where required. Where excavating for new construction is required within drip line of trees, hand excavate to minimize damage to root systems. Use narrow spading forks and comb soil to expose roots. Relocate roots back into backfill areas wherever possible. If large main lateral roots are encountered, expose beyond excavation limits as required to bend and relocate without breaking. If root relocation is not practical, then contact Client representative for approval to cut roots 1/2" or greater. If approved, clean cut roots using a handsaw or chainsaw approximately 3 inches back from new construction. Where existing grade is above new finish grade, carefully excavate within the drip line to the new finish grade. Carefully hand excavate an additional 8 inch below the finish grade. Use narrow line spading forks to comb the soil to expose the roots and prune the exposed root structure as recommended by the Arborist. After pruning and treatment is complete, backfill to within the finish grade with 8" of approved landscape fill material. Temporarily support and protect roots against damage until permanently relocated and do not allow exposure of root to air to occur beyond 12 hours. Cover with damp soil, peat moss, bark or gunny sacks in order to keep moist so as not to dry out and permanently cover roots as soon as possible. Where it has been determined that trenching for utilities can seriously impact the roots of a desirable tree, then bore or tunnel under tree to minimize root impact.
7. Water deeply trees that are substantially trimmed or within drip line of excavation work for the duration of this contract.
8. Water deeply trees that show signs of stress and are located in areas where the groundwater table has been lowered due to construction activities.
9. The Contractor shall be responsible for coordinating all construction activities that may impact trees with clients representative and the Arborist, who will do the necessary pruning and deep root fertilization deemed necessary by the Architect.

**3.05 POST CONSTRUCTION CARE OF TREES:**

1. The Contractor shall water when it is necessary to supplement natural rainfalls required preventing excess drying of the tree root area. Barring natural rainfall, the Contractor should apply 1" per week over entire root protection zone.
2. The Arborist shall monitor and authorize for removal the trees which show symptoms of stress, which might be indicated by branch die back chlorosis or fringe browning of the leaves. This would indicate that the crown is not in equilibrium with roots and additional pruning would be necessary. Subsequent pruning should remove only as much green wood as deemed necessary to reestablish equilibrium. If trees die during construction due to contractor negligence up to a one year post construction period, the Contractor will be required to replace trees at his or her own expense as called for in Paragraph 3.6.
3. The Contractor shall perform post construction care under the supervision of an arborist.

**3.06 QUALITY ASSURANCE:**  
Same as Level I

**3.07 MEASUREMENT:**

"Maintenance Pruning" Soil Amendment, and Fertilization" , ½" or larger of dead, diseased wood.

"Maintenance Pruning" 1" or larger of dead, diseased wood.

**3.08 PAYMENT:**

Work performed and materials furnished as prescribed by this item and measured as provided under "Measurement" will be paid for as follows:

"Level I Pruning, Soil Amendment, and Fertilization" Will be paid for at the unit price bid per each tree receiving "Level I Pruning, Soil Amendment, and Fertilization" of the size called for , which price shall be full compensation for furnishing all materials; preparation, hauling, handling charges, placement, labor, tools, and incidentals necessary to complete the work.

Level II Pruning will be paid for at the contract lump sum price bid, which price shall be full compensation for work herein specified, including the furnishing of all materials, equipment, tools, labor, and incidentals necessary to complete the work.

**3.09 BID ITEM:**

Item 802.1 - Level I Pruning, Soil Amendment, and Fertilization - per each tree

Item 802.2 - Level II Pruning - per Lump Sum

**ITEM 2000**  
**REMOVE AND REPLACE BRICK COLUMNS**

**2000.1 DESCRIPTION:** *This item shall be for removing and replacing brick columns that are a maximum of 8' tall at the locations designated in the plans and for furnishing and installing any additional materials required as specified by this item or as indicated on the plans.*

**2000.2 MATERIALS:** All materials furnished shall be equal to or better in quality than the materials of the existing brick column unless specifically designated on the plans. All materials necessary to remove, install, and construct the brick column shall be considered inclusive in this specification. The materials include but are not limited to brick, mortar, mix materials, any structural steel members required, any hardware, including bolts, timber post for column base, and sealing agents.

Mortar shall be in accordance with BIA Technical Notes, measuring the materials by volume. Laboratory testing for the mortar before or during construction shall conform to ASTM C780 to maintain a degree of quality control during production.

**2000.3 EQUIPMENT:** The necessary and proper machinery, tools and materials for proper installation and placement of the brick columns shall be provided and included in this specification.

**2000.4 CONSTRUCTION:** Construction and general practices for the preparation, installation, and construction of brick shall apply. The mortar and brick are to be stored off the ground and covered with plastic to prevent defects in the material. Sand is to be placed on tarps and covered with plastic and the end of the day. Any reinforcement material shall be covered and protected from natural elements. When the ambient air temperature exceeds 100° F or 90° F with a wind velocity greater than 8 mph, mortar beds shall not be spread more than 4 ft. ahead of the masonry units. Units shall be laid within one minute of spreading mortar.

a. Preparation: Establish lines, levels and coursing.

- b. Wetting Brick: Wet brick with average absorption rates in excess of 30 g./min/30 sq. in. determined by ASTM C67, so that rate of absorption when laid does not exceed this amount. During cold weather construction, these brick may require sprinkling with warm or hot water just before laying. During cold weather construction, the absorption rate may reach 40g./min/30 sq. in. before wetting may be required. The mason's discretion must be counted upon to determine optimum workability for brick and mortar. Recommended procedure to insure that brick are nearly saturated, surface dry when laid is to place a hose on the pile of brick until the water runs from the pile. This should be done one day before brick are to be used. In extremely warm weather, place hose on pile several hours before brick are to be used.
- c. Cleaning Reinforcement: Before being placed, remove loose rust, ice and other coatings from reinforcement.
- d. Cutting Brick: Cut exposed brick with motor-driven saw or by other methods which provide cuts that are straight and true. DO NOT install cracked, broken, chipped or otherwise damaged masonry unit.
- e. Mortar Joint Thickness: Lay all brick with 3/8" joint.
- f. Ties: Ties placed in bed joints should be placed with one-half brick width embedment, approximately 2", but no less than 5/8" mortar cover.
- g. Workmanship, Installation, and Mixing Procedures of Mortar:
  - 1. Thoroughly mix ingredients in clean mechanical batcher for 3 to 5 minutes.
  - 2. Mix mortar ONLY in quantities needed for immediate use.
  - 3. Measure materials by volume or equivalent weight, using the same measurement for each material and batch. Do not measure by shovel.
  - 4. If mortar color is to be used, add in accordance with manufacturers recommendations. Ensure uniformity of mix and coloration.
  - 5. DO NOT use anti-freeze compounds to lower the freezing point of mortar or accelerators.

6. Retempering: If necessary, retemper mortar within two hours of mixing to replace water lost by evaporation. DO NOT retemper mortar after two (2) hours from time of mixing. Throw away after 2 hours. ONLY add a small amount of water within a basin formed in the mortar, than rework mortar. Dashing or pouring water over mortar WILL NOT be permitted. Discard all mortar that has stiffened because of chemical reaction (hydration), or which is harsh, non-plastic.

h. Brick Installation:

1. DO NOT install cracked, broken, chipped, or otherwise damaged masonry units.
2. Lay-out and adjust each coursing to each wall space so that no course shall finish at an external corner or at a jamb with a piece less than 1/2 size unit wherever possible. Bond of each course at jamb openings shall be symmetrical.
3. Lay brick plumb and true to lines, head joints to line up and be plumb.
4. Lay with completely filled mortar joints; bed joints should not be deeply furrowed and brick should be buttered with sufficient mortar to fill head joints.
5. Rock closures into place with head joints thrown against two adjacent brick in place.
6. Adjust units to line and level while mortar is soft and plastic. Do not disturb unit once in place except to completely remove and set in fresh bed of mortar. If head joints are opened curing adjusting, refill head joints.
7. Do not pound corners and jambs to fit stretcher units after they are set in position. Where an adjustment must be made after mortar has started to harden, remove mortar and replace with fresh mortar.
8. Keep cavity in cavity walls clean by prevent mortar droppings from clogging the cavity or plastering excess mortar onto back of brick or placing wood strips with attached wire pulls on metal ties. Before placing next row of metal ties, remove and clean wood strips.
9. Minimize brick cleaning by practicing workmanship that prevents excessive mortar droppings. If any mortar droppings do adhere to the brick, they should be immediately removed. After tooling, mortar tailings should be cut off with

a trowel and excessive mortar and dust brushed from the surface. Avoid any motion that will result in rubbing or pressing mortar particles into the brick faces.

- i. Cleaning: Cut out any defective joints and holes in exposed masonry and repoint with mortar. Clean all exposed unglazed masonry.
  1. At least 21 days prior to regular cleaning apply cleaning agent to sample wall area of 20 sq. ft.
  2. Dry clean the wall first, removing blobs of mortar with wooden paddles or tools.
  3. No wet cleaning shall take place within seven days of placing masonry.
  4. Do not use high pressure sprays to apply cleaning solution or rinsing down the walls.
  5. When a cleaning agent is required; follow the brick manufacturer's recommendations. Thoroughly wet surface of masonry. Scrub with acceptable cleaning agent, avoiding mortar joints. Wait time as suggested by manufacturer before rinsing with clear water. Do small sections at a time. Work from top to bottom, insuring that lower portion of wall is thoroughly wetted when cleaning the upper portion. Protect all sash, metal lintels and other corrodible parts when masonry is cleaned with acid solution.

**2000.5 MEASUREMENT:** Accepted work performed and prescribed by this item will be measured by the vertical linear foot (VLF) of the brick column to be removed and replaced.

**2000.6 PAYMENT:** The work performed and materials furnished as prescribed by this item will be paid for at the contract unit bid price per linear vertical foot for "Removing and Replacing Brick Column". The unit bid price shall be full compensation for removing, reinstalling, and or replacing the existing brick column. Compensation shall include furnishing all additional material for all labor, tools, equipment, and incidentals necessary to complete the work.

**2000.7 BID ITEM:**

Item 2000            Remove and Replace 24"x24" Brick Column (4')

**ITEM 2100**  
**REMOVE AND REPLACE WOOD FENCE**

**2100.1 DESCRIPTION:** *This item shall be for the removing and replacing of the specified wood fence type and gate, maximum 8' high, at the locations designated in the plans and for furnishing and installing any additional materials required as specified by this item or as indicated on the plans.*

**2100.2 MATERIALS:** All materials furnished shall be equal to or better than the materials of the existing fence unless specifically designated on the plans.

**2100.3 EQUIPMENT:** Provide the necessary and proper machinery, tools and materials for proper installation and placement of the wood fencing.

**2100.4 CONSTRUCTION:**

A. **Privacy Fence:** Repair or replace damaged wood fence or wood fence gate. The cedar posts shall be set true to line and grade in concrete bases at least two feet in depth. All posts shall be sound and free from all decay, splits, multiple cracks, or any other defect which would weaken the posts or otherwise cause them to be structurally unsuitable for the purpose intended.

i. The maximum distance between posts in any section shall not exceed eight feet. The top and bottom railings shall be securely fastened to the posts with galvanized nails or other acceptable means. Changes in line of 30 degrees or more shall be considered as corners. A minimum of six inches of concrete shall be provided below the bottom of each post. End posts, corner posts, and gate posts shall have a concrete base at least twelve inches in diameter. Bases for line posts shall also be twelve inches in diameter.

ii. Fence slats shall be placed on the roadway side of posts unless otherwise specified. The slats shall be placed approximately one inch above the ground and on a straight grade between posts by excavating

high points of the ground. Filling depressions will be permitted only upon approval by the City Engineer.

- iii. The slats shall be sound and free from all major decay or defects which would weaken or otherwise cause them to be unsuitable for fence slats. Fastening to top and bottom railings shall be done with two galvanized nails at both the top and bottom rail.

B. **Picket Fence:** Repair or replace damaged Picket fence and gate. Height shall be to match existing. Picket Fence type shall match existing or as specified in the plans.

**.2100.5 MEASUREMENT:** Accepted work performed and prescribed by this item will be measured by the linear foot of fence replaced. Gates will not be measured as a separate pay item but will be included in the linear foot quantity.

**2100.6 PAYMENT:** The work performed and materials furnished as prescribed by this item will be paid for at the contract unit bid price per linear foot for “Relocating and Replacing Wood Fence,” which price shall be full compensation for removing, reinstalling, and replacing the existing fence and gates. Compensation shall include furnishing all additional material for all labor, tools, equipment, and incidentals necessary to complete the work.

**2100.7 BID ITEM:**

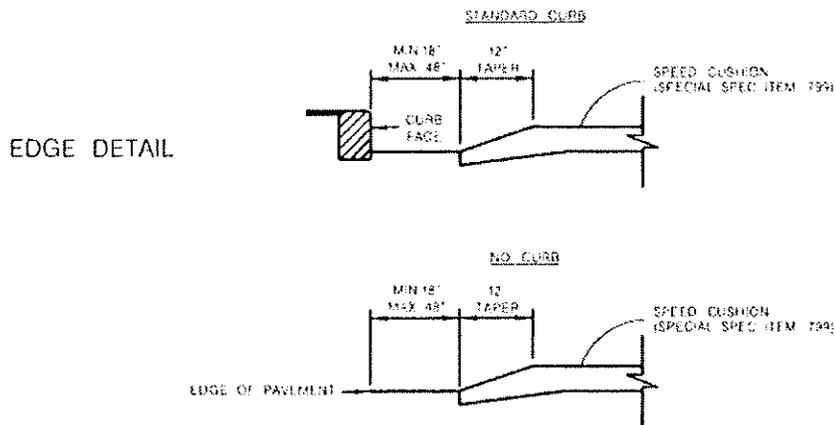
- Item 2100.1 Privacy Fence
- Item 2100.2 Picket Fence

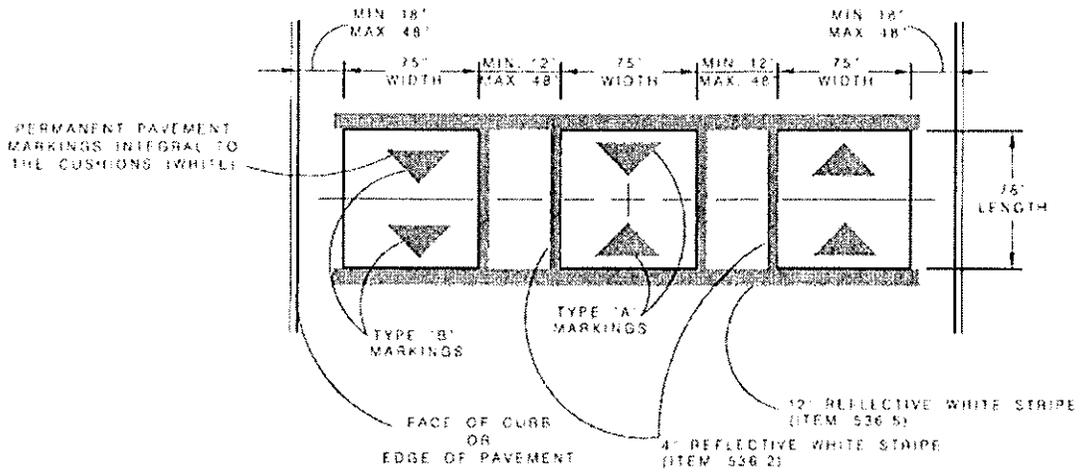
**ITEM NO. 2200**  
**REMOVE AND REPLACE SPEED BUMP**

- 2200.1 DESCRIPTION:** This item shall consist of the removal and installation of speed bumps as indicated by the engineer or as shown in the construction plans. Installation general
- 2200.2 MATERIALS:** Materials consist of the purchased speed bumps and necessary items to properly install the speed bump.
- 2200.3 EQUIPMENT:** The necessary and proper machinery, tools and materials for proper installation and placement of the speed bump.
- 2200.4 CONSTRUCTION:** The contractor shall install the speed bump per the City of San Antonio and the manufacturer's installation specifications at the specified location on the construction plans.
- 2200.5 MEASUREMENT:** Speed Bumps will be measured by the unit of each (EA) assembled unit and includes all necessary materials for installation, including any rebar spikes, lag bolts, or adhesives.
- 2200.6 PAYMENT:** Payment for "Speed Bumps" will be made at the unit price bid for each speed bump. Payment shall include all necessary materials for installation.

GENERAL NOTES

1. SPEED HUMPS WILL BE CONSTRUCTED AT LOCATIONS DESIGNATED BY THE TRAFFIC ENGINEERING DIVISION
2. SPEED HUMPS, TYPE II SHALL BE COMPRISED OF MODULAR RUBBER CUSHIONS AS OUTLINED IN SPECIAL SPECIFICATION ITEM 799
3. CONTRACTOR SHALL CONTACT THE CONSTRUCTION COORDINATOR AT 207 2075 BEFORE ANY STREET IS TEMPORARILY CLOSED FOR CONSTRUCTION
4. THE DISTANCE BETWEEN SPEED HUMPS WILL BE DETERMINED BY THE TRAFFIC ENGINEERING DIVISION
5. TRAFFIC ENGINEERING DIVISION WILL IDENTIFY THE LOCATIONS OF ALL SIGNS RELATED TO THE SPEED HUMPS.
6. NO PART OF A SPEED HUMP SHALL BE LOCATED IN FRONT OF A DRIVEWAY APPROACH, RATHER THEY SHOULD BE A MINIMUM OF 6 FEET FROM THE EDGE OF DRIVEWAY, WHEN PRACTICAL
7. SEE TRAFFIC SIGN DETAILS FOR INFORMATION ON 
8. SPEED HUMPS SHOULD BE PLACED AS CLOSE AS POSSIBLE TO PROPERTY LINES INSTEAD OF MID LOT, WHERE PRACTICAL.
9. SPEED HUMPS SHOULD BE INSTALLED AT A RIGHT ANGLE TO THE CENTERLINE TANGENT OF THE ROADWAY
10. TRAFFIC CONTROL CONSISTING OF SIGNS AND MARKINGS SHALL BE PROVIDED TO ADVISE ROADWAY USERS OF A SPEED HUMP'S PRESENCE AND TO GUIDE THEIR SUBSEQUENT ACTIONS TRAFFIC SIGNS AND PAVEMENT MARKINGS SHALL CONFORM TO THE TEXAS MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES(TMUTCD)
11. ALL SIGNS AND MARKINGS WILL BE PROVIDED AND INSTALLED BY THE CONTRACTOR AS PER ITEM 531, 533, 536 2, 536 5
12. CONTRACTOR SHALL NOT OPEN SPEED HUMP TO TRAFFIC UNTIL ALL REQUIRED WARNING SIGNS AND MARKINGS ARE COMPLETE
13. CONTRACTOR WILL MAINTAIN TEMPORARY MARKINGS UNTIL PERMANENT MARKINGS ARE INSTALLED.
14. CONTRACTOR WILL CHECK WITH TRAFFIC OPERATIONS FOR THE SPECIFICATIONS ON THE SIGN EMBLEM AND THE SPEED HUMP MARKINGS AT 207.3951
15. CONTRACTOR SHALL COMPLETE THE CUSHION INSTALLATION TO FORM ONE COMPLETE HUMP BEFORE LEAVING THE JOBSITE.
16. CONTRACTOR SHALL WORK ONE HALF OF THE STREET AT A TIME AND MAINTAIN TWO-WAY TRAFFIC WITH CERTIFIED FLAGGERS
17. ROADWAYS 36' WIDE OR WIDER MINIMUM CURB TO CUSHION EDGE SHALL BE 48"

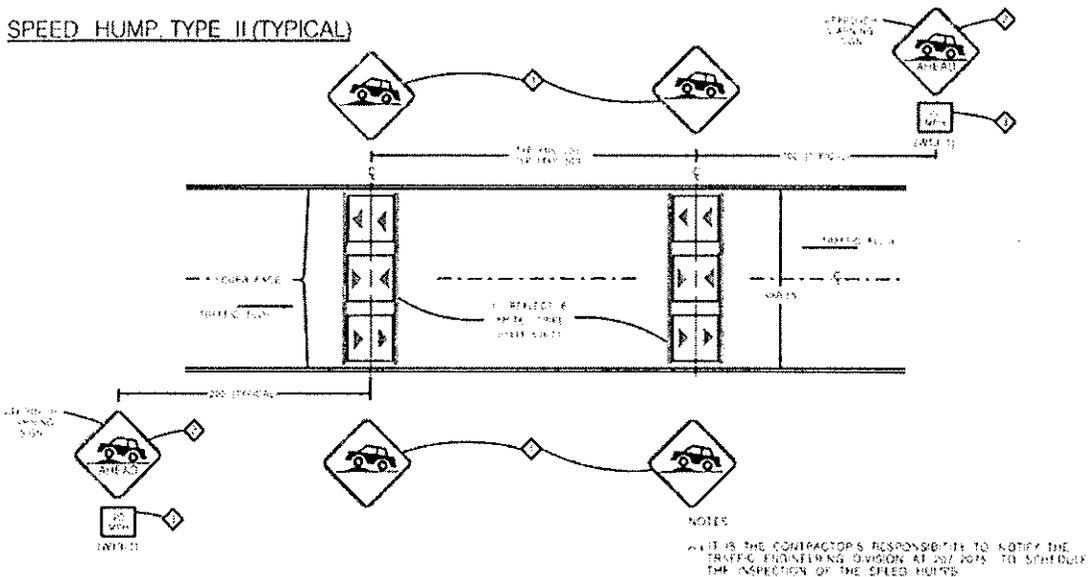




PAVEMENT WIDTH (FEET)	NO. OF CUSHIONS	GAP (IN)	CUSHION (IN)	GAP (IN)								
16	3	34.0	75	34	75	34	75	34.5	75	34.5	75	34.5
20	4	41	75	41	75	41	75	41	75	41	75	41
24	5	48	75	48	75	48	75	48	75	48	75	48
28	6	55	75	55	75	55	75	55	75	55	75	55
32	7	62	75	62	75	62	75	62	75	62	75	62
36	8	69	75	69	75	69	75	69	75	69	75	69
40	9	76	75	76	75	76	75	76	75	76	75	76
44	10	83	75	83	75	83	75	83	75	83	75	83
48	11	90	75	90	75	90	75	90	75	90	75	90

\* REFER TO SHEET 2 OF 2 FOR ADDITIONAL STREET WIDTHS

**SPEED HUMP, TYPE II (TYPICAL)**



NO.	DATE	REVISION	DESIGNER	CHECKER	APPROVER
1	0.5.02	DRAWINGS	JR	MB	MB
2	3.21.03	LOCATION DETAILS	JR	MB	MB
3	8.28.03	GENERAL NOTES	JR	MB	MB
4	6.30.05	DETAILS	CH	MB	MB
5	1.22.11	SPACING CHARTS	BT	BT	MB

**CITY OF SAN ANTONIO, TEXAS**  
**GOVERNING SPECIFICATIONS, SPECIAL SPECIFICATIONS,**  
**AND SPECIAL PROVISIONS**  
**FOR**  
**CREIGHTON AVENUE ROADWAY RECONSTRUCTION**  
**FROM SOUTHCROSS TO QUINTANA**

Standard Specifications and Special Specifications applicable to this project are identified as follows:

**SAN ANTONIO WATER SYSTEM STANDARD SPECIFICATIONS ADOPTED**  
**MARCH 2008 – REVISED 2009**

(Available online at [http://www.saws.org/business\\_center/specs/constspecs](http://www.saws.org/business_center/specs/constspecs))

100	MOBILIZATION
101	PREPARATION OF RIGHT-OF-WAY
550	TRENCH EXCAVATION SAFETY PROTECTION
804	EXCAVATION, TRENCHING AND BACKFILL
812	WATER MAIN INSTALLATION
818	PVC (C-900) PIPE INSTALLATION
822	CUSTOMER’S YARD PIPE (WATER)
824	SERVICE SUPPLY LINES (WATER)
826	VALVE BOX ADJUSTMENTS
828	GATE VALVES
833	METER AND METER BOX INSTALLATION
834	FIRE HYDRANTS
836	GREY-IRON AND DUCTILE-IRON FITTINGS
839	ANCHORAGE AND THRUST BLOCKING
840	WATER TIE-INS
841	HYDROSTATIC TESTING OPERATIONS
844	BLOWOFF ASSEMBLIES
847	DISINFECTION

848	SANITARY SEWERS
850	SANITARY SEWER STRUCTURES
854	SANITARY SEWER LATERALS
858	CONCRETE ENCASEMENT, CRADLES, SADDLES, AND COLLARS
860	VERICAL STACKS
864	BYPASS PUMPING
869	PROJECT SIGNS
902	SAFETY AND HEALTH PROGRAM
903	CONSTRUCTION QC/QA PROGRAM
904	CONSTRUCTION PHASE PROCEDURES
906	WATER USE ACCOUNTABILITY
1109	SANITARY SEWER SERVICE STUBS AND RECONNECTIONS
1110	PROGRESS SCHEDULE
1112	PROJECT RECORD DOCUMENTS
1114	PRE-CONSTRUCTION VIDEOS

**SPECIAL SPECIFICATIONS**  
(Included Herein)

834	SPECIAL PROVISIONS TO SAWS ITEM 834 – “FIRE HYDRANTS”
852	SANITARY SEWER MANHOLES
1840	MINOR WATER TIE IN
1850	TEMORARY WATERLINE
3000	REMOVAL, TRANSPORTATION AND DISPOSAL OF AC PIPE
	WATER VALVES TO OPEN LEFT

## **SPECIAL PROVISION TO SAWS ITEM 834 – “FIRE HYDRANTS”**

### **SECTION “MATERIALS” – AS PER SAWS MATERIAL SPECIFICATION FOR 834 ADD A COLOR OPTION TO ITEM “I. (COLOR)” TO READ THE FOLLOWING:**

#### **Color of fire hydrant to be specified in plans.**

The color of the finish paint above the ground line shall be safety yellow; except in cases where another color is desired. The tops and nozzle caps of hydrants in the classes outlined in Sec. 005.3 are to be painted as follows:

#### **Class A Safety green**

Hydrant colors shall signify only the approximate capacity of the individual hydrant as tested alone and not its capacity when more than one hydrant in the vicinity is in use. The marking of the hydrant is not to be considered as in any way guaranteeing the capacity indicated by the color.

1. The exterior surface of the hydrant shall be coated with a coating that shall meet or exceed the requirements of Federal Specification TT-C-494b. A second coat of water based or oil based enamel paint safety yellow in color will then be applied from the top of the hydrant to a point 18 to 20 inches below the center line of the pumper nozzle or down to the traffic safety flange connection at the ground line.

2. All interior surfaces, machined surfaces, such as the threaded portion of the stem or stem nut, that must fit closely with the adjacent parts, shall be coated with a coating that shall meet or exceed Federal Specification TT-C-494b. Stem surfaces contained within a lubricant reservoir and not in contact with potable water may be free of coating.

3. The interior and exterior of the hydrant shoe shall be coated with a fusion bonded epoxy having a nominal dry film thickness of 8 mils, conforming to ANSI/AWWA C550-81, and certified to NSF 61.

4. Coating shall be as close to holiday free as is technologically possible.

**ITEM NO. 1840**  
**MINOR WATER TIE-INS**

- 1840.1 DESCRIPTION:** This item shall consist of 1 ½-inch and 2-inch water main tie-ins installed in accordance with these specifications and as directed by the Engineer.
- 1840.2 MATERIALS:** The materials for water main tie-ins shall conform to the specifications contained within the latest revision of SAWS' Material Specifications for all appropriate items.
- 1840.3 CONSTRUCTION:** The Contractor shall make tie-ins from new water mains to existing water mains as shown on the plans or as directed by the Engineer. The Contractor shall be responsible for all shutdowns and isolation of the existing mains; cutting pipe for the connection; dewatering the excavation; customer notification of the shutdown; and all other requirements as directed by the Engineer or Inspector to provide completion in a safe and secure manner. All tie-ins shall be done after normal work hours, (8am-5pm). During construction, the planned shutdown and tie-in shall be coordinated through and approved by the Construction Inspector and accomplished at a time which will be at the least inconvenience to the customers. No additional compensation will be provided for tie-ins accomplished after normal working hours.
- 1840.4 MEASUREMENT:** Tie-ins will be measured by the unit of each assembly to include all fittings and cut Galvanized Iron Pipe (G.I.) as required for the various sizes of tie-ins installed.
- 1840.5 PAYMENT:** Payment for "Tie-ins" will be made at the unit price bid for each tie-in of the various types and sizes, G.I. pipe, and fittings. Such payment shall include; shut-down and isolation of the existing main to which the new main is to be connected, cutting pipe for the connection dewatering the excavation, and customer notification of service interruption where required. Connections between new and existing mains which are made with tapping sleeves and valves and by cutting-in tees will be as no-separate pay item.

**ITEM NO. 1850**  
**TEMPORARY WATERLINES**

- 1850.1 DESCRIPTION:** This item shall consist of a temporary waterline to be installed during the construction of new water mains that may disrupt the water services. The temporary waterline to be located as indicated on plans or as directed by SAWS inspectors or by the Engineer.
- 1850.2 MATERIALS:** The material the temporary waterline shall be an approved SAWS material for the temporary water main. Materials shall conform to the specifications contained within the latest revision of SAWS' Material Specifications for all appropriate items. All types of pipe materials will be part of this bid item.
- 1850.3 CONSTRUCTION:** The contractor is responsible for maintaining access to impacted homes and securing the temporary water main during construction and be responsible for any damage and /or injuries resulting from the installation of the temporary water main. The temporary water main is intended to be an above ground installation, but may be placed underground. The contractor is to fully restrain the entire length of the temporary water main if placed above ground. If the temporary water main is underground the pipe will be a restrained system and must adhere to Standard details DD-839-04 through DD-839-08 or as shown on plan drawings. Restraints for the temporary water main are inclusive to this bid item. The contractor shall notify residents 48 hours prior to installation of the temporary main. Temporary main must be chlorinated, sampled, and tested prior to active
- 1850.4 MEASUREMENT:** Temporary waterlines will be measured per linear foot (lf) and include fittings, tie-ins, service connections, and all appurtenances necessary to provide a temporary water main.
- 1850.5 PAYMENT:** Payment for Temporary Waterline shall include fittings, tie-ins, service connections, and all appurtenances to provide a temporary water main for water main construction. Such payment shall include; shut- down and isolation of the existing main to which the temporary main is to be connected, cutting pipe for the connection dewatering the excavation, and customer notification of service interruption where required. Connections which are made with tapping sleeves and valves and by cutting-in tees will be as no-separate pay item.

# San Antonio Water System Standard Specifications for Construction

## ITEM NO. 3000 SPECIFICATIONS FOR HANDLING ASBESTOS CEMENT PIPE

### INTRODUCTION

This item shall govern the uncovering, dislodging, handling, removing, transporting, and disposing of asbestos cement (AC) pipe and other asbestos containing materials (ACM). AC pipe is also known as transite pipe. AC pipe typically contains from 15% to 20% chrysotile and crocidolite asbestos and is considered to be an asbestos-containing material. The disturbance and/or removal of this material is governed by the National Emissions Standards for Hazardous Air Pollutants (NESHAP) 40 Code of Federal Regulations (CFR) 61; by the Occupational Safety and Health Administration (OSHA) 29 CFR 1926.1101; the State of Texas Occupation Code, Chapter 1954 and Health and Safety Code Chapters 361 and 363; and the Texas Administrative Code (TAC), 25 TAC Chapter 295 and 30 TAC Chapter 330.3 and 330.171. The material is classified by definition under 40 CFR 61, Subpart M, Section 61.141 as Category II, non-friable ACM, unless, when dry, it can be crumbled, pulverized, or reduced to powder by hand pressure. At that time, it becomes classified as regulated ACM (RACM) and subject to regulation under Subpart M. It is the intent of this specification to define procedures that maintain the AC pipe in an intact state. Contractors shall not use procedures that subject the AC pipe to forces that will crumble, pulverize, or reduce to powder the AC pipe. By using procedures that have a low to no probability of fiber release, the pipe retains its classification as Category II, non-friable ACM. These procedures will protect workers from the health risk associated with airborne asbestos.

References to the City of San Antonio (COSA) pertain only to those joint bid projects, where joint jurisdiction occurs due to the contract's binding agreement. Definitions used and incorporated as part of this specification are located in Appendix One. Applicable standards and guidelines used and incorporated as part of this specification are located in Appendix Two.

### **3000.1 DESCRIPTION**

This item shall consist of the uncovering, dislodging, handling, removing, transporting, and disposing of AC pipe, joints, wrappings and other ACM. To comply with NESHAP and OSHA requirements, this project will require workers trained in using wet technique procedures to dislodge and remove AC pipe, AC pipe joints, valves (any type) containing ACM, and any surrounding soils that may contain ACM. The Contractor shall develop an Asbestos Removal Work Plan, herein referred to as "the Plan", (see Appendix Three, Example Procedures) that provides specific and detailed procedures they and/or any of their subcontractors will follow to maintain the AC pipe in an intact state. The Plan shall specify the wet techniques to be followed when the pipe collars are dislodged. The Plan shall include procedures/actions to be followed if the intact AC pipe becomes broken and the possibility exists of asbestos fibers becoming airborne. By regulatory definition, if and when the pipe and/or collar are broken, they become a regulated ACM (RACM) and subject to NESHAP. The Plan shall state or reference procedures in the contractor's Safety and health program document that they will follow to comply with the federal OSHA asbestos standard. Finally, the Plan shall contain provisions for the

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environmentally compliant disposal of the intact AC pipe and any RACM created during the removal process. The Plan shall be provided to the San Antonio Water System (SAWS) at the pre-construction (pre-con) meeting for its review and approval prior to initiating uncovering operations to verify the contractor has met the contractual requirements. No handling and disposing of SAWS AC pipe will begin without approval from SAWS. Any ACM encountered that is not SAWS pipe and not previously identified by SAWS or shown on SAWS plans will not be authorized for disposal payment. Preparation and submission of the Plan shall be considered subsidiary to the work required and no direct payment will be made.

If the project is joint bid with COSA, the Plan shall also be submitted to COSA Environmental representatives for their review and approval, as required. The Contractor shall comply with the COSA and any other agencies requirements. Any uncovering, dislodging, handling, or disposing of AC pipe and associated written handling and removal plans, such as an abatement plan, required by another agency will be paid for by that agency using their specification/bid item number. Again, no handling and disposing of SAWS AC pipe will begin without approval from SAWS.

To meet and/or exceed NESHAP and OSHA guidelines, the contractor will subcontract the AC pipe handling plan and work to an Environmental Protection Agency (EPA) accredited and Texas Department of State Health Services (DSHS) licensed asbestos abatement contractor, DSHS licensed asbestos consultant, and DSHS air monitoring technician.

NESHAP guidelines apply to facility projects in which the combined amount of regulated asbestos containing material (RACM) is at least 260 linear feet (LF) or 35 cubic feet or 160 square feet. This means that if the combined amount of RACM is at least 260 linear feet of the AC pipe, including AC collars, and it is expected to become or becomes crumbled, pulverized, or reduced to powder, then the project is subject to the NESHAP provisions of reporting and asbestos emission control paragraphs in 40 CFR Section 61.145. If the DSHS RACM limit of 260 LF is exceeded, the contractor is responsible for any DSHS administrative fees and fines. The contractor shall be responsible for submitting the DSHS notification with copies to SAWS and COSA Environmental Division for joint bid projects.

If the scope of the project may involve the threshold amount (260 linear feet or greater), a Demolition/Renovation Notification Form will be sent to DSHS by the Contractor. This form shall be post-marked no later than 10 working days prior to the start of any asbestos handling work.

All projects involving AC pipe require that NESHAP and OSHA standards are met and/or exceeded. The contractor shall perform all work in a manner that meets or exceeds those standards. The contractor shall have and follow a written Plan that describes their detailed handling and disposal procedures of the AC pipe. The contractor shall submit copies of the Plan to SAWS for review and approval and for joint bids, COSA Environmental representatives, as required. OSHA requires that during any ACM disturbance, regardless of amount, the asbestos worker(s) shall be protected from potential airborne asbestos exposure in excess of the permissible exposure limit or excursion limit as stipulated in 29 CFR 1926.1101.

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### MEASUREMENT

#### 3000.2 SUBMITTALS AND NOTICES

- A. At the Pre-construction Conference/Meeting the following shall be submitted for review and approval to SAWS, and when applicable COSA Environmental representatives, as required:
1. The Plan in accordance with: NESHAP, OSHA, this Special Specifications, Item Number 3000, and State requirements. The number of copies submitted of the Plan is the same as the number of copies required under other bid submittal requirements with one copy being submitted electronically. The work plan shall provide detailed procedures for retaining the AC pipe's Category II, non-friable NESHAP classification. The contractor shall incorporate working with ACM and complying with mandated OSHA requirements for Class II, asbestos work in their project specific Safety and Health Plan. The guidance provided in these special specifications is not intended and does not constitute an asbestos abatement project design as described under 25 TAC, Chapter 295.
  2. Submit proof satisfactory to SAWS, and as applicable, COSA Environmental representatives, that required permits, site location, and arrangements for transport and disposal of asbestos containing waste material (ACWM) have been made that meet Texas environmental statutes and regulations. Include the name of the transporter, their Texas asbestos transporter license number, and the name of the approved landfill where the AC pipe and ACM waste will be buried.
- B. During Asbestos Handling and Disposal Activities: Submit copies to SAWS and if applicable, COSA Environmental representatives of all transport manifests, trip tickets, and disposal receipts for all ACWM removed from the work area during the project. The Contractor will sign manifests as the SAWS's representative (generator) for the AC pipe and provide copies to the SAWS Construction Inspection Department for final payment.

#### 3000.3 CONSTRUCTION REQUIREMENTS

- A. The Work includes all work specified herein, to include mobilization and demobilization, labor, materials, overhead, profit, taxes, transportation, disposal fees, administrative fees, and incidental cost. Estimating areas, quantities, and weight are the sole responsibility of the Contractor.
- B. The asbestos abatement Contractor shall remove and double bag with 6-mil polyethylene sheeting to yield a total of at least 12-mil, the asbestos pipe in the trench or immediately when it comes out of the trench, seal, label, transport, and dispose of all Category II non-friable ACM and RACM in compliance with applicable current Federal, State and local regulations, laws, ordinances, rules, standards and regulatory agency recommended requirements.
- C. The Contractor shall notify SAWS and, if applicable COSA representatives, at least 72 hours prior to beginning uncovering, dislodging, handling, and removing the AC pipe. AC pipe uncovering, dislodging, handling, and/or removing shall be conducted during regular business hours, 8 a.m. to 5 p.m., Monday-Friday. No uncovering, dislodging, handling, and or removing of AC pipe outside of the normal business

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hours or during the weekend is allowed unless special circumstances require the contractor to do so and the work has been approved in writing at least 72 hours before the commencement of the work.

- D. Time is of the essence in removing the ACM from the project area. All work must be completed within the time period specified in the contract. SAWS, and if applicable COSA representative will be responsible for coordinating this work in high-density areas, such as schools, church facilities, and residential areas.
- E. All notifications required to state regulatory agencies will be made by the Contractor with copies provided to SAWS and as applicable, COSA representatives, including but not limited to the DSHS Demolition/Renovation Notification Form. If 260 linear feet or greater of RACM pipe will become crumbled, pulverized, or reduced to powder, the project is subject to NESHAP regulations and a Demolition/Renovation Notification Form will be sent to DSHS by the Contractor. This form will need to be post-marked no later than 10 working days prior to the start of any asbestos disturbance.
- F. The Contractor shall have an on-site supervisor, who is an Asbestos/OSHA Competent Person, present on the job site at all times that the AC pipe work is in progress. This supervisor shall be thoroughly familiar with and experienced at asbestos pipe handling using wet techniques and shall be familiar with and shall enforce the use of all safety procedures and equipment. He/she shall be knowledgeable of all applicable EPA, OSHA, and DSHS asbestos requirements and guidelines.
- G. The Contractor has: sole and primary responsibility for the “means and/or methods” of the work; an obligation to SAWS to inspect all stages of the work; and sole responsibility to supervise the performance of the work. Certain work practices for AC pipe disturbance are prohibited as per Section 3000.5.C.
- H. The Contractor shall be responsible for site safety and for taking all necessary precautions to protect the Contractor’s, SAWS, and COSA personnel and the public from airborne asbestos exposure and/or injury. The Contractor shall be responsible for maintaining the integrity of the work area.
- I. The Contractor shall confine operations at the site to the area requiring interface with the AC pipe and the general site area in close proximity to the project. The Contractor will not unreasonably encumber the site with materials or equipment. If ACWMs are required to be stored overnight in a secured area, the waste material and waste containers shall be labeled according to OSHA and EPA, and the State of Texas requirements, & containerized to preclude unauthorized disturbance of the ACWMs.
- J. The Contractor shall be responsible for obtaining and coordinating waste disposal and transport of ACWM to a Texas Commission on Environmental Quality (TCEQ) permitted asbestos waste landfill. Waste manifests shall be generated for the transport of the AC pipe and ACWMs from the project site to the landfill disposal site. The Contractor will sign the manifests as the SAWS’s representative (generator) for the AC pipe and provide copies to the SAWS Construction Inspection Department for final payment.

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### **3000.4 SITE SECURITY**

The Contractor shall demarcate the area of AC pipe interface (“regulated area”) with barrier tape and warning signs, per OSHA regulation 29 CFR 1926.1101. Access to the regulated area will be limited to authorized personnel and visitors. The contractor shall identify in their site specific safety and health plan how they intend to limit access and who is authorized to be in the demarcated area.

### **3000.5 AC PIPE HANDLING**

- A. General: Any project involving AC pipe, the Contractor shall comply with OSHA standards and shall develop a Safety and Health Plan that complies with SAWS Specification 902, Construction Safety and Health Program requirements.
- B. The asbestos abatement Contractor shall uncover, dislodge, handle, remove, transport, and dispose of all AC pipe specified in the SAWS bid documents/plans for this project using wet technique procedures. All work involving AC pipe and other ACM products must be addressed in the Plan. The asbestos abatement Contractor shall take precautions to prevent damage to adjacent structures and material/finished material not required for AC pipe handling.
- C. Prohibited Work Practices and Engineering Controls: Contractors shall not use procedures that subject the AC pipe to forces that will crumble, pulverize, or reduce to powder the AC pipe. The following work practices and engineering controls shall **not** be used for work related to AC pipe or for work which disturbs ACM, regardless of asbestos exposure or the results of Initial Exposure Assessments:
1. High-speed abrasive disc saws and sanders not equipped with point of cut ventilator or enclosures with HEPA filtered exhaust air.
  2. Carbide-tipped cutting blades.
  3. Electrical drills, chisels, and rasps used to make field connections in AC pipe.
  4. Shell cutters used to cut entry holes in AC pipe.
  5. A hammer and chisel without using wet techniques to remove pipe connections.
  6. Compressed air used to remove asbestos or material containing asbestos.
  7. Dry sweeping, dry shoveling, or other dry clean-up of dust and ACM debris.
  8. Employee rotation as a means of reducing employee exposure to asbestos.
- D. General Removal Work Practices: See Appendix Three for an example of the detailed general work practices a contractor could use in preparing an Asbestos Removal Work Plan. If the contractor uses the example, they must expand upon the provisions in the appendix to describe its specific procedures. The appendix is provided for illustrative purposes only. If the contractor employs this example, SAWS requires greater site specific detail to be included in the Plan submitted for approval.
- E. Disposal bags for RACM shall be 6-mil polyethylene and labeled as required by EPA regulation 40 CFR 61.150 (a)(1)(iv) or OSHA requirement 29 CFR 1926.1101(k)(8).

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- F. Stick-on labels identifying the generator's name (SAWS) and address and the project site location shall be applied to any asbestos waste disposal bag that contains RACM, as per EPA or OSHA and Department of Transportation requirements.
- G. Abandonment of AC water mains/pipes:
1. The Contractor is responsible for isolating the existing mains to remain in place by capping, plugging and blocking as necessary. The opening of an abandoned AC water main and all other openings or holes shall be blocked off by manually forcing cement grout or concrete into & around the openings in sufficient quantity to provide a permanent watertight seal. Abandonment of AC water mains will be considered subsidiary to the work required, & no direct payment will be made.
  2. Abandonment of Valves that contain ACM: Valves to be abandoned in the execution of the work shall have the valve box and extension packed with sand to within eight inches (8") of the street surface. The remaining eight inches (8") shall be filled with 3,000 psi concrete or an equivalent sand-cement mix and finished flush with the adjacent pavement or ground surface. The valves covers shall be salvaged & returned to SAWS. The abandonment of valves containing ACM will be considered subsidiary to the work required, & no direct payment will be made.
  3. Verification of Removal & Clean-up Procedures: The Contractor's on-site Competent Person shall inspect the work area, verify, and certify that no residual AC pipe fragments and debris remain.
- H. Disposal Procedures: Submit copies to SAWS Environmental Division and, if applicable COSA Environmental representatives, of all transport manifests, trip tickets, and disposal receipts for all asbestos waste materials removed from the work area during the project. The Contractor will sign manifests as the SAWS representative (generator) for the AC pipe and provide copies to SAWS Construction Inspections for final payment.

### **3000.6 Payment**

The work performed per items shall be paid for at the unit price bid per lineal foot for the various sizes of AC pipe removed. The lineal foot bid price shall include "Removal, Transportation, and Disposal," which prices shall be full compensation for the work herein specified including the furnishing of all materials, equipment, tools and for the material disposal, submittals, and labor necessary to complete the work. No payment shall be made for the Plan.

### **3000.7 Bid Item**

Removal, Transportation, and Disposal (Lineal Foot). Liner footage is to be provided by SAWS.

### **STANDARD PLAN NOTE:**

**Asbestos Cement (AC) pipe**, also known as transite pipe, contains asbestos-containing material (ACM) and is located within the project limits. Special waste management procedures and health and safety requirements are applicable when handling, removing, and disposing of this pipe. Payment for such work is to be made under Special Specification Item No 3000, "Special Specification for Handling Asbestos Cement Pipe".

## Appendix One

### DEFINITIONS

As used anywhere in Item No. 3000, Specifications for Handling Asbestos-Cement Pipe, including all appendices, the following shall be defined to mean:

- A. Amended Water – Water to which a surfactant (wetting agent) has been added to increase the ability of the liquid to penetrate ACM.
- B. Approval – Means the SAWS contract requirements have been met but does not mean that the SAWS stipulates any written documents adequately comply with federal and state occupational safety and health regulatory requirements.
- C. Asbestos – A group of naturally occurring silicate minerals and includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that has been chemically treated and/or altered.
- D. Asbestos Containing Material (ACM) – Material or products that contain more than 1.0% of any kind of asbestos.
- E. Asbestos Containing Waste Material (ACWM) – Asbestos containing material or asbestos contaminated objects requiring disposal.
- F. Authorized Personnel – Any person authorized by the Contractor and required by work duties to be present in the regulated area.
- G. Authorized Visitor – SAWS representatives, and any representative of a regulatory or other agency having jurisdiction over the project.
- H. Asbestos Consultant – A person licensed by the Texas Department of State Health Services to perform the following asbestos abatement related functions in public buildings:
  - (1) Project design; (2) Asbestos surveys and condition assessment of ACM; (3) Asbestos Management Planning; (4) The collection of bulk material samples, airborne substance samples and the planning of sampling strategies; (5) Owner-representative services for asbestos abatement projects or O&M programs, including air monitoring and project management; (6) Consultation regarding regulatory compliance and all aspects of technical specifications and contract documents; and (7) The selection, fit testing, and appropriate use of personal protection equipment & the development of asbestos related engineering controls.
- I. Abatement Contractor – The company, agency, or entity licensed by the Texas Department of State Health Services that has been retained to perform asbestos abatement and other associated functions.
- J. Class II Asbestos Work (OSHA Standard) – Activities involving the removal of ACM, which is not thermal system insulation or surfacing material. This includes, but is not limited to, the removal of asbestos containing wallboard, floor tile and sheeting, roofing and siding shingles, and construction mastics.

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- K. Competent Person – An individual who is capable of identifying existing asbestos hazards in the workplace, can select the appropriate control strategy for asbestos exposure, and who has the authority to take prompt corrective measures to eliminate them.
- L. Friable Asbestos – Asbestos containing material, that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure and includes previously non-friable material that has become damaged to the extent that, when dry, it may be crumbled, pulverized, or reduced to powder by hand pressure.
- M. NESHAP – The National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61).
- N. OSHA – The Occupational Safety and Health Administration.
- O. Regulated Area – An area established by the Contractor or employer to demarcate areas where asbestos work is conducted and any adjoining area where debris and waste from such asbestos work accumulate; and an area within which airborne concentrations of asbestos exceed or there is a reasonable possibility they may exceed the permissible exposure limit.
- P. Regulated Asbestos Containing Material (RACM) – (1) Friable asbestos material; (2) Category I non-friable ACM that has become friable; (3) Category I non-friable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading; or, (4) Category II non-friable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by forces expected to act on the material in the course of the demolition or renovation operations regulated by 40 CFR Part 61, Subpart M.
- Q. Staging area – A pre-selected area where wrapped or containerized asbestos containing waste material will be placed prior to removal from the project site.
- R. Surfactant – A chemical wetting agent added to water to improve penetration.
- S. Uncovering operations – The use of mechanical, pneumatic, and/or manual procedures that disturb the material and/or soil above and/or around the AC pipe that would expose personnel to the AC pipe.

## **Appendix Two**

### **APPLICABLE STANDARDS AND GUIDELINES**

All work under these specifications shall be done in strict accordance with all applicable Federal, State, and local regulations, standards, and codes governing asbestos disturbance, handling, removal and disposal. Work activities shall also comply with SAWS and City of San Antonio Specifications related to safety and health.

The most recent edition of any relevant regulation, standard, or code shall be in effect. Where there is a conflict between the regulations, standards, codes, and/or these specifications, the most stringent requirements shall apply.

As a minimum, the Contractor shall comply with the applicable portions of the following:

A. Occupational Safety and Health Administration (OSHA) including but not limited to:

1. Title 29 Code of Federal Regulations (CFR) Section 1926 – Safety and Health Regulations for Construction
2. Title 29 CFR Section 1926.1101 – Safety and Health Regulations for Construction - Asbestos.
3. Title 29 CFR Section 1910.134 – Occupational Health and Safety Standards - Respiratory Protection.
4. Title 29 CFR Section 1910.1020 – Occupational Health and Safety Standards - Access to Employee Exposure and Medical Records.
5. Title 29 CFR Section 1910.1200 – Occupational Health and Safety Standards - Hazard Communication.

B. Environmental Protection Agency (EPA) including but not limited to:

Title 40 Code of Federal Regulations Part 61 Subpart M – National Emission Standard for Asbestos.

C. Texas Statutes, including but not limited to:

1. Occupation Code, Chapter 1954, Asbestos Health Protection
2. Health and Safety Code Chapters 361 and 363, Solid Waste

D. Texas Administrative Code including but not limited to:

1. Department of State Health Services, Title 25, Chapter 295, Subchapter C – Texas Asbestos Health Protection.
2. Texas Administrative Code, Title 30, Chapter 330 Municipal Solid Waste.

E. Department of Transportation – Hazardous Materials Regulations 49 CFR, Parts 170 – 180.

F. SAWS Specification 902 Safety and Health Program

## Appendix Three

### Example of Procedures for Handling SAWS AC Pipe

The following is an example of procedures for handling SAWS AC pipe. A contractor could use them as a basis for preparing an Asbestos Removal Work Plan. The contractor must expand upon the provisions of this appendix to describe its specific procedures. This appendix is provided for illustrative purposes only. The contractor is required to develop a site specific Asbestos Removal Work Plan that complies with the provisions of this specification. If the contractor employs this example, SAWS will require greater site specific detail to be included in the plan submitted for approval. A licensed asbestos abatement contractor is preferred to perform all asbestos abatement activities. However, an alternative method of AC pipe abatement includes utilizing State accredited asbestos worker awareness personnel or asbestos trained personnel to handle disturbed ACM. Third party air monitoring will be required for all City and SAWS joint projects.

**Scope of Work:** Describe the work and be specific as to the intended involvement with the existing AC pipe. For example: abandoning/removing X feet of AC pipe; tying into a section of an existing waterline and replacing one section (X feet) of pipe to make the connection; or connecting into an existing section of AC pipe by tapping into the AC pipe.

#### 1. Excavation to pipe

- Excavate to within X inches/feet of the section of AC pipe to be replaced/removed. Depending upon the depth of the excavation, shoring may be needed following company procedures (provide or reference those procedures).
- Once the pipe is located, excavate (by machine or hand) on one/both sides of the pipe to expose the collars and pipe. Dig the earth from around the collars by hand to create a clearance space completely around the collar. DO NOT SCRAPE OR ABRASE THE PIPE WITH THE EXCAVATION DEVICE(S).
- Set up pumps to evacuate any residual water when the AC pipe is dislodged.

#### 2. Wet method use

- Make the amended water solution by mixing 1 ounce of a liquid detergent (Dawn, Joy, other) with 2 to 3 gallons of water in a 2 to 3 gallon mist sprayer. Other size sprayers may be used.
- Wet each portion of the pipe, normally just the collar, to be removed with the amended water (water/soap) solution.
- Use the mist sprayer to produce a “mist” application and continuously wet the collars throughout the wrapping, cracking, and removal process. An asbestos worker shall be assigned to and is responsible for this procedure during the entire dislodging process.

#### 3. Only cracking AC pipe collars is approved

- Wrap wet towels/burlap/other defined absorbent material around the collar. Wrap the collar with at least two layers of 6-mil polyethylene sheeting to provide a total

## **San Antonio Water System Standard Specifications for Construction**

of at least 12-mil. It is recommended that additional poly be used on the collars to minimize possible tearing of the plastic.

- Place another layer of wet towels/burlap/ other defined absorbent material on the wrapped collar.
- Use the flat head end of a sledgehammer to crack the collar while continuously “misting” the collar. Strike the collar on the side of the section of pipe to be removed to prevent the remaining section of pipe from being broken.
- Put all of the pieces of collar into a 6-mil polyethylene waste bag. Look for small pieces that may have been generated during the cracking process, wet them, and place them in the waste bag.

**NOTE:** When the collars are cracked and removed from a shutdown waterline, residual water may drain from the dislodged AC pipe. Follow company safety procedures to control the water (provide or reference those procedures).

### **4. Double bag all AC waste materials**

- All visible AC pipe materials including collars, towels, rubber gloves, gaskets, and other items suspected of containing asbestos shall be double bagged using two (2) 6-mil AC waste bags. The inner bag contents shall be mist sprayed with amended water or mixed with water from the trench prior to closing to maintain the contents wet. Close the bag when it is half full by twisting the top of the bag and sealing with moisture resistant tape.
- If the asbestos waste bag is small enough, it may be placed inside the section of intact pipe before the pipe is wrapped in at least two layers of 6-mil poly. If placing the waste bag inside the pipe, do not force it causing it to tear.

### **5. Removal of pipe and waste bag from trench**

- All sections of “intact” pipe shall be wrapped in a minimum of two (2) layers of 6-mil poly sheets (12-mil total) while in the trench and lifted out of the trench using only nylon slings. If the trench contains water, the pipe shall be lifted out of the trench using only nylon slings and placed on a minimum of two (2) layers of 6-mil poly sheets (12-mil total) on the ground next to the trench.
- Wrap each pipe segment in at least 12-mil of poly and secure with tape.
- Lift the ACM waste bag(s) from the trench and move it/them to a secure location to prevent accidental contact with the bag(s) that would cause it/them to tear.

**NOTE:** Any valves, bends, tees, fittings, or other items that have AC pipe connected shall be wrapped whole as required with the same minimum total of 12-mil of poly material.

### **6. AC Pipe and Waste Storage/Transfer**

- Wrapped AC pipe and ACM waste bags shall be stored in a secure area away from traffic that could damage the wrapped pipe and/or waste bags while awaiting transport to the permitted landfill.

## **San Antonio Water System Standard Specifications for Construction**

- If daily transport to a permitted landfill cannot be provided, a roll-off type dumpster/disposal container may be used to hold only the wrapped AC pipe and bagged RACM waste to prevent damage to the wrapping.
  - DO NOT TOSS THE PIPE OR WASTE BAGS INTO THE ROLL-OFF OR DISPOSAL CONTAINER.
  - DO NOT MIX SPOILS WITH THE AC WRAPPED PIPE AND AC WASTE.
- All wrapped or bagged materials shall be moved to the AC pipe/waste fenced holding area for storage. If a roll-off or other type disposal container is used, place the wrapped pipe and waste bags in the roll-off/container using methods that do not cause the wrapping/bagging to be torn.
- Any bagged or wrapped materials that are torn in handling shall be mended and taped. If the tear is too extensive for a simple tape repair, wrap/bag with an additional equivalent of 12-mil minimum thickness of poly wrap/bagging.

### **7. AC Pipe and Waste Disposal**

The wrapped AC pipe and ACM bagged waste shall be transported to an approved AC waste landfill with the manifests being generated at the time of transfer. Include the name of the transporter, their Texas asbestos transporter license number, and the name of the permitted landfill where the AC pipe and ACM waste will be buried.

- END -

**CPS ENERGY  
REQUIREMENTS AND SPECIFICATIONS  
FOR CONSTRUCTION OF  
NATURAL GAS DISTRIBUTION FACILITIES  
ON THE  
CREIGHTON AVENUE ROADWAY RECONSTRUCTION**

# **CPS Energy**

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**CPS ENERGY  
EXHIBIT GAS-1**

**ADDITIONS TO THE PROJECT BID DOCUMENTS**

**1. MINIMUM REQUIREMENTS FOR BIDDING ON CPS WORK**

A. Contractor used for the gas pipeline work must have performed utility gas pipeline work within the past (3) three years of similar technical scope and magnitude as the services to be performed under this contract. With their bid, Contractor shall provide evidence of qualifications in this regard and of any licenses, permits or registrations possessed that pertain to the services or are required in the specifications. Contractor may contact CPS Energy prior to the letting of this project to determine if their previous experience meets this requirement.

B. The Contractor shall have a program complying with 49 CFR Part 199, "Control of Drug Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations" and 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" to test employees for the presence of prohibited drugs as prescribed and to provide an employee assistance program. The Contractor agrees to provide CPS Energy with an affidavit prior to the date of execution of the Contract which states that Contractor and its employees have complied with all applicable laws, statutes, and regulations pertaining to ensuring a drug free workplace including, but not limited to, the requirements of Part 199 and Part 40. Furthermore, the Contractor agrees to allow CPS Energy Human Resources personnel periodic on-site access to Contractor's records documenting compliance with Part 199 and Part 40. Contractor will provide the name and contact person for the agency or consortium used by the Contractor to comply with this requirement prior to the date of execution of the Contract.

C. The Contractor agrees to provide CPS Energy with an affidavit prior to the date of execution of the contract which states that Contractor and its employees have complied with all applicable laws, statutes, and regulations pertaining to ensuring a drug free workplace including, but not limited to, the requirements of 49 CFR as amended by the Research and Special Programs Administration (RSPA).

D. CPS Energy requires the following to verify Contractor and Sub-Contractor compliance with all applicable laws, statutes and regulations pertaining to the qualification of pipeline personnel including, but not limited to the applicable requirements of 49 CFR Part 192 – Subpart N -“Qualification of Pipeline Personnel” as adopted by the Railroad Commission of Texas (RCC) within the Pipeline Safety Rules.

1. ***A Notarized Affidavit that states the company placing the bid and its sub-contractors are in compliance with 49 CFR 192 and RRC Pipeline Safety Rules pertaining to the qualification of pipeline personnel.***

- 2. A current copy of its Operator Qualification Plan, unless currently on file, and approval of its plan by a CPS Energy Gas Operation's Representative. A copy of CPS Energy Covered Tasks is shown in Exhibit Gas-7 - CPS Energy Covered Tasks Regulated by 49 CFR Part 192.**
- 3. Current listing of employees and qualifications.**

E. The Contractor shall submit a copy of SMWBA Form 101 to CPS Energy prior to date of execution of the contract.

F. Prospective Contractors bidding on the Project shall submit to CPS Energy through the City of San Antonio a properly executed Certificate of Insurance from its insurance agent or carrier of such insurance coverages as required and set forth in the Project Contract Documents prior to award of the contract. Failure to provide proof of insurance will result in City's Contractor not being approved for award of the CPS Energy utility work on the Project.

# **ADDITIONS TO THE PROJECT CONTRACT DOCUMENTS**

## **1. DEFINITION OF TERMS**

Add to the City of San Antonio Article I. Contract Definitions:

49. CPS – CPS Energy Board, a municipal agency of the City of San Antonio.

## **2. LAWS TO BE OBSERVED**

The Contractor shall make himself familiar with and at all times shall observe and comply with all Federal, State, and local laws, ordinances, and regulations which in any manner affect the conduct of the work and shall indemnify and save harmless CPS Energy and its representatives against any claim arising from the violation of any such law, ordinance, or regulation, whether by himself or by his employees.

## **3. PERMITS, LICENSES AND TAXES**

The Contractor and his subcontractors shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incident to the due and lawful prosecution of the work and upon request by the City Engineer give evidence of the same.

## **4. RESPONSIBILITY FOR DAMAGE CLAIMS**

**The Contractor agrees to indemnify and save harmless CPS Energy, its agents, and employees from all suits, action or claims and from all liability and damages for any and all injuries or damages sustained by any person or property of any character in consequence of any neglect in the performance of the contract by the Contractor and from any claims or amounts arising or recovered under the “Workers’ Compensation Laws”; Chapter 101, Texas Civil Practice and Remedies Code (Texas Tort Claims Act), or any other laws. He shall further so indemnify and be responsible for all damages or injury to property of any character occurring during the prosecution of the work to the extent resulting in whole or in part from any act, omission, neglect or misconduct on his part in the manner or method of executing the work; or from failure to properly execute the work; or from defective work or materials purchased by Contractor, except those claims for damages caused solely by the negligence of CPS Energy. Contractor shall not be released from these responsibilities until all claims have been settled and suitable evidence to the effect furnished to CPS Energy. The indemnification provided herein shall survive the termination of this Contract.**

## **5. CONTRACTOR REQUIREMENT**

A. The Contractor shall abide by the regulations promulgated in 49 Code of Federal Regulations Part 40 and 49 Code of Federal Regulations Part 199 and any modifications thereto listed below in this Article. CPS Energy will require such compliance to be a part of this Contract and will immediately terminate this Contract if Contractor is found to not be in compliance with said regulations. Contractor shall indemnify CPS Energy against any fines, penalties, damages, costs or attorney fees based upon any violation by Contractor of the same.

B. The Contractor shall abide by the regulations promulgated by the Federal Highway Administration (FHWA) which states that contractors subject to FHWA mandates shall be in compliance with those parts of 49 Code of Federal Regulations (CFR) which relate to the illegal use of alcohol and controlled substances.

## **6. PROSECUTION AND PROGRESS**

All workers or subcontractors employed by the Contractor shall have such skill and experience as will enable them to properly perform the duties assigned them.

## **7. WARRANTY**

The Contractor shall warrant all components, materials and workmanship for a period of at the least one (1) year from the date of final completion of gas pipeline work by Contractor. The Contractor warrants the title and guarantees the equipment, materials and workmanship furnished under this Contract to be specified and to be free from defects in design, workmanship and materials. If within the warranty period the work fails to meet the provisions of this guarantee, CPS Energy shall notify the Contractor thereof immediately and the Contractor shall promptly correct any defects, including nonconformance with the Contract Documents, by adjustment, repair or replacement F.O.B. the Project site of all defective work at its sole costs.

## **8. INSURANCE**

The Contractor agrees to keep in full force during the performance of services hereunder insurance sufficient to fully protect CPS Energy from all damages, claims, suits and/or judgements, caused or claimed to have been caused by or in connection with the performance or failure to perform any services undertaken by Contractor, his subcontractor, or their agents, or employees.

## **9. COORDINATION**

All questions about the gas construction shall be addressed to Brad Carr, CPS Energy Gas Construction, at (210) 353-4251. Design and engineering questions may be addressed to the CPS Energy Gas Engineering Division, Civic Improvements Section, at (210) 353-2430.

**CPS ENERGY  
EXHIBIT GAS-2  
SPECIFICATIONS FOR CONSTRUCTION OF  
NATURAL GAS DISTRIBUTION FACILITIES**

**1. GENERAL**

The work to be done includes clearing right-of-way where necessary; receiving, transporting and unloading all materials from a designated CPS Energy center; stringing pipe, welding steel pipe and pipe fittings, and fusing high density polyethylene gas pipe and pipe fittings; excavating trenches and ditching for the burial of the gas piping facilities; installation of gas piping into the excavation along with required appurtenances such as anodes, anodes lead wires, and tracer wires; backfilling of ditches, repair of damage to any street, road, highway, sidewalk, drainage structures, driveways, signs, other utilities, fencing, or other existing structures; clean-up of right-of-way and any other item enumerated in these specifications.

The work shall conform with Title 49 of the Code of Federal Regulations, Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards" and to the CPS Energy design standards attached to this document as Exhibits GAS-3 and GAS-4, as applicable.

**2. ROUTE OF THE GAS LINE**

Construction of the gas line will, in general, follow the route shown on Exhibit GAS-6 (CPS Energy Job Sketch). Gas services to be installed, relocated or adjusted are also indicated on Exhibit GAS-6, as applicable.

CPS Energy reserves the right to make any changes in the routing which may be deemed necessary and such changes shall in no manner alter the terms or compensations payable under this contract except as they are affected by linear measurements of work completed.

All gas lines shall be installed in a separate trench apart from any other utility lines unless joint trenching with other utilities is specifically required on the CPS Energy Job Sketch or prior written approval is obtained from the CPS Energy representative allowing joint trench construction.

**3. RIGHT-OF-WAY**

The CPS Energy Job Sketch will indicate the planned route of the gas lines to be installed. The construction plans will show as much information as can be reasonably obtained by CPS Energy regarding the location of other existing buried utilities and structures in/or crossing the rights-of-way, but CPS Energy assumes no responsibility for the correctness or completeness of this information. Contractor will be held responsible for locating all such utilities and structures and for avoiding damage to them and for making repairs or paying for any damage thereto. CPS Energy will provide and furnish all necessary right-of-way, federal, state, county and city roadway crossing permits, which shall be necessary for the construction.

Most of CPS Energy's gas facilities are constructed within public rights-of-way; however, CPS Energy may acquire easements on private property for construction of gas distribution facilities when public rights-of-way are not available or unusable. When gas facilities are planned for construction within easements on private property, the exact boundaries of such easements will be shown on the CPS Energy Job Sketch, and CPS Energy will survey and stake the easement boundaries in the field. Contractor shall preserve such field staking of easement boundaries. If the Contractor's construction activities disturb the field survey stakes, then the Contractor shall be responsible for resurveying the easement boundary when necessary. Contractor shall comply with all reasonable requirements of landowners, tenants or lessees which are designed to reduce interference of construction. It will be the Contractor's responsibility to limit traffic on the right-of-way to only such vehicles as may be necessary for construction. Contractor will be held liable for damage claims arising from grass and brush fires that may be set during his operations.

In addition, the term "right-of-way" shall also apply to those portions of public streets, roads or highways in which sections of the utility lines will be constructed. The Contractor working in any public right-of-way is responsible for the safe movement of traffic (pedestrian and/or vehicular) through the construction area. The Contractor shall meet all requirements for barricading and traffic control as specified in the Texas Manual on Uniform Traffic Control Devices (TMUTCD).

#### **4. MATERIALS TO BE FURNISHED BY CPS**

CPS Energy agrees to furnish all steel pipe, polyethylene (plastic) gas pipe, casing pipe, valves, valve boxes, stop cocks, service risers, couplings, casing insulators, casing end seals, steel pipe insulating joints, miscellaneous pipe fittings, anodes, cathodic protection test lead boxes, pipeline warning signs, gas pipe tracer wire, tracer wire clamps, pipe coating primer, and pipe coating tape and/or shrink sleeves necessary to complete the job except when these materials are to be specifically provided by the Contractor in accordance with written requirements of the Compensation Schedule (Exhibit GAS-5) or CPS Energy Job Sketch (Exhibit GAS-6).

#### **5. CLEARING AND GRADING OF RIGHT-OF-WAY**

The Contractor shall clear and grade right-of-way sufficiently for his need and for hauling and stringing pipe and other material but not to exceed the width of right-of-way. Contractor shall be responsible for any damages outside of right-of-way limits. Contractor shall perform all necessary grading and compaction at road, stream, and gully crossings and at other locations where needed to permit the passage of equipment, cars, and trucks. Before any brush or timber is cut to clear right-of-way, approval from CPS Energy in writing must be obtained. All brush and timber cut to clear right-of-way must be removed from the right-of-way and disposed of to the satisfaction of the CPS Energy representative. Any trimming of an oak tree will require the contractor to follow **oak wilt suppression procedures**:

- Avoid pruning or wounding any oaks unless absolutely necessary.
- If pruning is required, request assistance as soon as possible from the CPS Energy Tree & ROW Maintenance Section or one of the Inspectors listed below.

- Any pruning wounds or damage caused by equipment (trucks, diggers, trenchers, backhoes, etc.) must be painted immediately, within a minimum of one hour. This includes any cracked or ripped limbs and wounds to trunks, limbs or root flares which may have been damaged by passing equipment.
- Within a known infection center, all tools must be disinfected with a 10% clorox and water solution or Lysol spray before using these tools on any other oak tree.

Requests for Assistance From the Tree & ROW Maintenance Section

When assistance is required, please provide as much notice as possible or call as soon as damage occurs. Contact names and numbers are listed below:

	Office	Radio#	Cellular	Pager#
Section Office	353-3593	2400		
James F. Koenig	353-3798	2401	844-5457	1336
Terri Minnia	353-5218	2405	394-3580	2241
Margie Regalado	353-5243	2403	394-3579	2428
Clyde Stroud	353-5218	2404	394-3578	2301
Ed Scott	353-5243	2402	275-6935	2852

The Contractor shall promptly repair all bridges, private roads, fences, buildings or other property damaged by him in the progress of the work. Permission must be secured from owner before private roads or bridges are used or blocked.

The Contractor will be notified prior to construction of all known requirements or restrictions of right-of-way by CPS Energy.

**6. UNLOADING, HAULING, AND STRINGING MATERIALS**

The Contractor shall unload from trucks and string on the right-of-way, as needed, all gas pipe and other materials in such manner as to prevent damage to same. Pipe shall be unloaded with proper equipment, and not dropped from trucks.

When materials in storage are issued to the Contractor, such materials shall become the responsibility of the Contractor, and adequate methods of inventory and material transfer will be set up by the Contractor. The Contractor and CPS Energy jointly shall inspect materials, which have been stockpiled by CPS Energy prior to hauling. After this inspection, the Contractor shall pay CPS Energy delivered cost of any materials lost or damaged beyond use during the construction operation.

Under no circumstances shall pipe be strung in advance of right-of-way clearing operations.

Stringing of pipe on right-of-way shall be done in such a manner as to cause minimum interference with the normal use of driveways, streets, roads, highways, and land crossed. The Contractor shall prevent entrance of dirt or debris into pipe during stringing.

## 7. LOCATING EXISTING CPS GAS FACILITIES

The Contractor shall be required to locate all existing gas facilities as needed for the construction and installation of new gas facilities. Upon request by the Contractor, the CPS Energy inspector will provide copies of the appropriate gas maps to facilitate locating activities for the existing gas facilities at the job site, however; CPS Energy does not guarantee the accuracy of such gas facilities map information. The Contractor shall use conventional pipe locating equipment and techniques in conjunction with information from the gas facilities maps to determine the actual location of existing gas facilities. The Contractor shall be solely liable for any damages to existing gas facilities and any damages to other infrastructure such as the street, drainage structures or other utilities, that are incurred by the Contractor.

## 8. TRENCHING (CONVENTIONAL OPEN EXCAVATION)

**A. Equipment and General Methods** - Contractor shall use such equipment and methods that may be required to excavate the trench or ditch along the route specified on the CPS Energy Job Sketch, regardless of the type of soil or rock encountered and regardless of the depth of excavation necessary. Contractor shall furnish all equipment, materials and supplies that may be necessary for the completion and maintenance of the trench or ditch, including water control, shoring, coffer dams and sheet piling.

**B. Survey Stakes** - Contractor shall carefully preserve all survey stakes set by CPS Energy, CPS Energy representatives, or consulting engineers and shall be liable for any extra expense due to Contractor's failure to maintain such stakes.

**C. Trench Specifications** - The trench or ditch shall have sufficient width and be of such depth to allow installation of piping and valves at depths specified on the CPS Energy Job Sketch and/or the CPS Energy Design Standards. When surfaced streets are cut, the paving shall be cut in neat lines defining the width of the trench to be excavated. The cut shall extend entirely through the asphaltic surfacing and shall break the base material to a sufficient depth to assure the removal of the surfacing and base without breaking beyond the lines of the trench. Concrete saws, pneumatic paving chisels, or mechanically operated drop blades may be used for asphalt surface cutting as approved by the governmental authority exercising jurisdiction. A concrete saw must be used to cut concrete driveways, streets, or other concrete surfaces.

**D. Blasting** - No blasting will be permitted by CPS Energy.

**E. Hand Ditch Requirement** - In all cases where shrubbery, trees, or valuable growing timber is encountered in the right-of-way, and in any location where, in the opinion of the CPS Energy representative, the use of ditching equipment may result in unnecessary damage or injury to property crossed by the right-of-way, CPS Energy may require the Contractor to excavate the trench or ditch by hand or other approved method.

**F. Temporary Bridges** - When the trench or ditch is excavated where it is desirable for a property owner, tenant or other pedestrians to have a passageway across the excavation, the Contractor shall provide safe, temporary bridges or provide other safe means of crossing the ditch.

No streets or driveways shall be blocked at night, except with owner's permission, and any street or driveway opened shall be provided with a strong temporary bridge to allow traffic to move safely. Open trenches and test holes shall be properly marked by means of barricades and warning lights.

**G. Additional Depth of Trench** - Where trenching across or adjacent to, or within the right-of-way of roads or highways, railroads, drainage ditches, creeks, ravines, and other water courses and also at points where the contour of the earth may require extra depth, Contractor shall excavate to such additional depth as may be necessary to meet the requirements of CPS Energy and any public or private authority having jurisdiction over same.

**H. Dust Suppression** - Whenever trenching activities create significant amounts of dust or other undesirable emissions into the atmosphere, then the Contractor may be required, at the sole discretion of the CPS Energy inspector, to take necessary action to reduce such emissions.

**I. Trench Excavation Safety** - The Contractor must comply with 29 CFR Part 1926, Occupational Safety and Health Standards; Subpart P - Excavations. Contractor and/or Contractor's independently retained employee or safety consultant, if any, shall review the construction plans and any available geotechnical information and the anticipated installation sites within the project work area in order to develop the Contractor's trench excavation safety plan and procedures. The plans and procedures shall, at a minimum, comply with OSHA's standards for trench excavations. Specifically, the Contractor and/or the Contractor's independently retained employee or safety consultant shall develop and implement a trench safety program in accordance with OSHA's standards governing the presence and activities of individuals working in and around trench excavation.

## **9. TRENCHLESS CONSTRUCTION METHODS**

The use of guided or directional boring equipment to install new gas distribution facilities is acceptable to CPS Energy provided that the Contractor demonstrates to the satisfaction of the CPS Energy representative that such equipment is capable of installing the gas pipe along a controlled and relatively constant horizontal and vertical alignment for the specific soil conditions that are encountered at each job site. Special provisions must be made to insure that the gas pipe is not damaged as it is pulled or otherwise inserted into the bored hole. The bored hole must be at least one nominal pipe size larger than the gas pipe that is to be installed (i.e. a 4-inch gas pipe requires at least a 6-inch bored hole). When the bored hole is known to have significant deflections, the bored hole must then be at least two nominal pipe sizes larger than the gas pipe.

When such equipment is used to install polyethylene gas pipe, a fusible link shall be used between the pull head and the gas pipe at all times to prevent damage to the gas pipe during the pull-back operation. The fusible link shall be at least 2 feet in length and it shall be a section of CPS Energy polyethylene pipe that is one nominal pipe size smaller than the gas main being installed. The CPS Energy representative shall inspect the fusible link and the leading edge of the installed gas pipe for any significant gouges or scrapes in the outside wall of the pipe or excessive change in length of the fusible link. If such damages to the fusible link or pipe are found to exist, then the Contractor shall remove and replace all of the damaged pipe at the Contractor's expense, and the Contractor shall reimburse CPS Energy for the cost of the damaged pipe (including CPS Energy inventory and handling expenses).

When such equipment is used to install steel gas pipe, the CPS Energy representative shall inspect the installed gas pipe for any significant gouges or scrapes in the protective coating on the outside wall of the steel pipe. If such damages to the coating are found to exist, then the Contractor shall repair all of the damaged coating at the Contractor's sole expense.

Whenever gas service lines are planned for installation along a section of gas main that is being installed with guided or directional boring equipment, the Contractor shall excavate at least one service tap location prior to pulling the gas main into the bored hole. The purpose of this excavation is to provide the CPS Energy representative with an intermediate inspection hole where the gas pipe can be inspected during the pipe insertion process. Preferably, the intermediate inspection hole shall be located near the middle of the directionally bored section. If several gas service connections are planned along the insertion route, then the CPS Energy representative shall select the location of the service tap that the Contractor must excavate for the intermediate inspection hole before the gas pipe insertion process.

Gas mains and services that are installed by guided or directional boring equipment shall not be routinely installed at depths greater than seven (7) feet unless one of the following conditions apply:

- 1) The CPS Energy Job Sketch (Exhibit Gas - 6) specifically requires installation depths in excess of seven (7) feet.
- 2) Installation depths in excess of seven (7) feet are the shallowest depths necessary to achieve acceptable clearance between the gas pipe and another buried utility or structure while maintaining the minimum burial depth requirements for the gas pipe.
- 3) The CPS Energy representative approves such installations even though conditions described in Items 1) and 2) above are not applicable.

When guided or directional boring equipment is used to install gas distribution facilities special provisions (if any) in the Compensation Schedule (Exhibit Gas-5) for additional compensation due to extra depth of cover shall not apply.

The method of gas service replacement by Insertion involves sliding a new polyethylene service pipe of smaller diameter into the existing steel service pipe. This is an acceptable method of installation provided that the ends of the existing steel pipe are reamed and fitted with bushings for the pipe to be inserted without damage, and a shrink sleeve is applied to keep components in place and prevent damage thereafter. In order to reduce stress on the service line being inserted

from the main, the horizontal distance between the end point of the new service alignment and the point of insertion should be, at least, twice the perpendicular distance between the lines (See Insertion Detail, page 19 of 20, exhibit Gas-3). Tracer wires will be inserted through the existing service along with the new pipe. An electrical continuity test will be conducted on each installed tracer wire to verify that the tracer wire has not been "shorted" against the existing steel service during the installation procedure.

## **10. STORM WATER POLLUTION PREVENTION PLAN**

The gas utility construction work shall be performed in accordance with the City of San Antonio Storm Water Pollution Prevention Plan (SWPPP).

## **11. PROTECTION OF GAS PIPE ENDS**

During the course of construction, diligent care shall be exercised to keep the gas pipelines clean. At the end of each day's work and at the other times that the ends of the installed pipe are left unattended, the pipe ends shall be securely closed to prevent the entrance of water, animals, trash or any other obstructions, and shall not be opened until work is resumed.

If there is reasonable cause to believe that water, trash or other obstruction is in a portion of the lines, the Contractor shall take whatever steps are necessary to assure CPS Energy that there is no water, trash or other obstruction in the line or to remove the water or other foreign matter if it is in the lines. Any and all work required to assure CPS Energy that the gas pipes are clear of debris and other such matter or to remove such obstructions shall be at the Contractor's expense.

## **12. WELDING**

Welding shall be in accordance with API Standard 1104, 17th Edition, dated September, 1994.

Welds shall be made the "shielded metal-arc" process. All equipment and welding rods will be furnished by the Contractor. Brand of welding rods proposed to be used by the Contractor shall be approved by CPS Energy prior to use.

Where determined by the CPS Energy representative to be necessary, back-welding or inside-welding of all tube turns, ells, etc., in the pipe lines shall be required by the Contractor as part of the work covered by the Contract. Back-welding shall be performed at the sole expense of the Contractor.

All welds shall be made with not less than three (3) beads. The second or "Hot Pass Bead", should be run on the full circumference of the pipe as soon as practical. The intent of the above is that the Hot Pass or second bead shall be run before the Stringer Bead has cooled.

Prior to being permitted to weld on the line, each welder shall qualify in accordance with Section 3.0 of API Standard 1104 referred to previously and shall pass the tests listed in paragraph 3.4 of the API Standard. The Contractor will conduct, or make arrangements for, and

stand the expense of the qualification tests of the welders. The qualifying tests will be conducted in the presence of the CPS Energy representative.

Each welder will be assigned a specific number and it shall be his duty to personally affix such number in crayon on each weld for future identification. Steel die stamping shall not be used.

CPS Energy rights of welding inspection shall be as given in Section 5.1 of API Standard 1104. Unless otherwise directed, the Contractor will test all welds with soapsuds while subjected to an internal air pressure of 90 psig prior to field coating the joints.

Pin holes, leaks, cold laps, rivers, undercutting or any defects whatsoever occurring in any weld shall, at the discretion of the CPS Energy representative, be repaired by cutting out the entire weld and completely rewelding at no additional expense to CPS Energy. Whenever it thus becomes necessary to remove a weld from the completed line, replacement shall be made, at the sole expense of the Contractor, by welding into the line a pup joint having a minimum length of ten (10) feet.

### **13. RADIOGRAPHIC INSPECTION**

This Section applies when radiographic inspection is specified in the contract documents.

**A. Standards and Codes** - The latest available edition of the following referenced documents shall be applied when required:

1. Department of Transportation, Title 49, Part 192 - "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards."
2. Recommended Practice No. SNT-TC-1A, Supplement A - "Radiographic Testing Method."
3. ANSI B31.8, "Gas Transmission and Distribution Piping Systems."
4. ASME Code Section V, "Nondestructive Examination."
5. United States Nuclear Regulatory Commission, Title 10, Chapter 1, CFR - Energy and other federal, state and local regulations for protection against radiation hazards.

**B. Radiographic Procedure** - All radiographic inspections shall be performed in accordance with written procedures per Section 8.2 of API Standard 1104. Contractor shall provide a copy of the written procedure to the CPS Energy representative who shall determine the acceptance of the procedure.

**C. Personnel Qualifications** - Radiographic certification shall be the result of a qualification and certification program that incorporates the requirements of

Recommended Practice SNT-TC-1A, Supplement A in accordance with Section 8.7 of API Standard 1104.

**D. Equipment and Material** - Contractor shall furnish all equipment and materials necessary for the performance of the radiographic inspection. Such materials and equipment include all film and supplies for the processing, film identification, recording, filing and storage of same. Also, Contractor shall provide all barriers, warning systems, film badges, documentation and records as is necessary for the protection and personnel monitoring of every person near a radiation source.

**E. Production Radiography Procedures** - Contractor will notify the CPS Energy representative if any welds fail to meet the specification. All repaired welds or welded joints, which have been completely replaced, shall be radiographed.

**F. Film Identification Procedure** - Film identification shall be in accordance with Section 8.6 of API Standard 1104. The exact method of identification will be approved by the CPS Energy representative prior to the start of radiographic inspection.

**G. Radiographic Reports and File** - Contractor shall be responsible for furnishing the CPS Energy representative with a report for each calendar day the unit is on the project. All radiographs made by Contractor shall be delivered to the CPS Energy representative and shall become the property of CPS Energy.

#### **14. PRESSURE TESTING**

**A. General** - The Contractor shall demonstrate to the satisfaction of the CPS Energy representative, by performing a pressure test, that the mains and/or services installed do not leak and that they will operate safely at the desired maximum allowable operating pressure. Pressure tests are performed to verify satisfactory workmanship and the strength of materials. To the extent practical, the test shall be conducted to the entire pipeline so as to minimize the number of untested tie-in connections. All joints used to tie-in a test segment of pipeline after the test shall be soap bubble tested at not less than its operating pressure. The Contractor shall be responsible for locating and repairing any leaks or failures, which are revealed by the test.

The Contractor shall furnish all supervision, labor, materials and equipment to perform the pressure test required, including but not limited to, pumps, compressors, pigs, test instrumentation and water. Pressure test specifications will be indicated on the CPS Energy Job Sketch (Exhibit GAS-6). The specifications will indicate the minimum and maximum test pressure, test fluid and test duration, as appropriate. The Contractor shall conduct the test in accordance with the applicable requirements of Title 49 CFR 192 and shall take all necessary safety precautions to protect construction personnel and the general public during the course of the test. The Contractor shall be responsible for obtaining all permits necessary to conduct the test except for the Railroad Commission of Texas test water discharge permit that is required for hydrostatic pressure tests.

**B. Standard Air Test** - A standard air test will generally be specified for gas mains and services to be operated at pressures of 60 psig or less. This test will be indicated on the CPS Energy Job Sketch without a test duration period. The minimum test pressure shall be 90 psig and shall not exceed 120 psig. The test duration shall be a time sufficient to insure discovery of all potentially hazardous leaks. At the minimum, each weld, butt fusion and any other fitting and connection shall be soap bubble tested at the specified test pressure. The test pressure shall be measured with a dial type gauge and shall be monitored during the course of the test to detect leakage. Upon completion of the test(s), the Contractor shall sign and date, in the appropriate location, the "as built" job sketch to indicate successful completion of the test. Pending acceptance by the CPS Energy representative, the CPS Energy representative shall also sign the "as built" job sketch at the appropriate location.

**C. High Pressure Test** - When the CPS Energy Job Sketch specifies a test pressure greater than 90 psig or if a specific test duration period is specified, then the following requirements for a High Pressure Test shall also apply.

Prior to initiating any work required for a High Pressure Test, the Contractor must hold a pre-test meeting with the CPS Energy representative and a CPS Energy engineer from the Gas Engineering Division. At this meeting, the Contractor will be required to discuss all aspects of plans for conducting the High Pressure Test. The key points of discussion for hydrostatic pressure tests will include the following: 1) optimum direction and injection rate for filling the pipe section with water while minimizing air entrapment; 2) optimum direction and discharge location for safely and completely draining the pipe section; 3) the type, quantity and condition of pipeline pigs; 4) installation and use of temporary pig launchers and/or receivers; 5) capacities of water pumping equipment; 6) pressurization procedures; 7) written test documentation; 8) limitations on refilling and/or discharging test water during the pressure test without invalidating the test and causing the test to be restarted; 9) test water stabilization period after filling the pipe section; 10) appropriate procedure for dewatering the pipe section to minimize the amount of water that remains in the pipe; 11) any other critical aspects of the High Pressure Test.

The test medium may be either air or water and will be specified on the CPS Energy Job Sketch. A hydrostatic test shall be conducted in general conformance with API Recommended Practice 1110. Air tests shall also be conducted in conformance with API RP 1110 with regard to safety and instrumentation.

All filling and pressurization procedures are subject to the approval of the CPS Energy representative. When a hydrostatic test is to be performed, the Contractor shall fill the pipeline in such a manner that no air is entrapped, making use of pipeline pigs as necessary. The Contractor shall be required to furnish all pipeline pigging equipment, including appropriate styles and types of pipeline pigs and temporary pig traps and launchers. The CPS Energy representative must inspect all pigging equipment, and such equipment must be acceptable to the CPS Energy representative prior to use by the Contractor.

The Contractor shall allow a suitable time for temperature stabilization of the test fluid. The stabilization period shall be a minimum of twenty-four (24) hours after the filling operation is complete for a hydrostatic test, and the stabilization period shall be a minimum of eight (8) hours after the pipeline is pressurized to the minimum test pressure for all High Pressure Tests performed with air or other compressed gases. At the sole discretion of the CPS Energy representative, the stabilization period may be reduced for short sections of pipe such as offsets and valve complexes.

The Contractor shall note each significant step or event during the filling, pressurization and testing operation and comments shall be added for any incidents which may affect the results of the tests. Where the specified test duration is two hours or less, deadweight pressure, pipe temperature and ambient temperature measurements shall be recorded at 15 minute intervals. Where the specified test duration is greater than two hours, these measurements shall be recorded at 30 minute intervals.

Upon completion of the test, the Contractor shall obtain the approval of the CPS Energy representative prior to depressurizing the pipeline. The Contractor shall then depressurize, dewater, clean and dry the pipeline to the satisfaction of the CPS Energy representative. Water shall be disposed of in the manner required by any permits and to the satisfaction of the CPS Energy representative.

**D. Test Records** - The Contractor shall submit to the CPS Energy representative all documentation associated with the test, including a completed Form I, "Hydrostatic Test Record and Certification" of Appendix I, API RP 1110, (or substantially similar documentation), testing logs and all recorder charts. All documentation shall be labeled to identify the pipeline section that was tested, and it must be signed and dated by the Contractor and approved by the CPS Energy representative.

## **15. COATING OF PIPE**

The Contractor will be furnished coated and wrapped pipe in accordance with such specifications as CPS Energy may in its sole discretion determine. The Contractor will be responsible for coating all field joints and repairing damaged and defective coating on the pipe regardless of the nature, extent or cause of such damage or defect in the coating. However, if the damaged or defective coating is of such magnitude as requires an extra or additional charge by the Contractor, then the Contractor shall first refer such matter to the CPS Energy representative and not proceed until the Contractor has obtained prior written authorization from CPS Energy to do so, in which event the provisions of the Contract relating to extra or additional work shall be applicable.

Coating materials for coating field joints and repairing damaged or defective coating will be furnished by CPS Energy.

For coating field joints, the coating on the pipe must be cut back a distance of 8" to 12" from the joint. The edge of the enamel and felt wrapping shall be feathered at these points to assure a firm bond between the original coating and the field coating. After the joints are welded and tested, and the welds cleaned and brushed, the bare ends of the pipe shall be thoroughly

cleaned, then immediately given a hand-brushed coat of primer to dry surfaces. Care shall be exercised to prevent primer from being applied too heavily, especially at the base of the welds; any runs or sags which have dried or dead primer shall be scraped off and the pipe reprimed. After the tape primer has dried to a tacky consistency, apply cold wrap tape with a 30 percent overlap taking care not to create any voids between the pipe and tap coating. No primer or coating will be applied to wet or damp pipe.

After the field joints have been coated and immediately before the pipe is lowered into the ditch, the entire coating will be tested to locate breaks or pinholes and other flaws in the enamel with an approved "holiday" detector in good working condition capable of producing the testing voltage in pulsating cycles at very low amperage. The voltage used shall not exceed 14,000 volts for pipe coatings of 3/32. All defective places will be plainly marked immediately after they are detected. The Contractor will furnish the holiday detector, and will check the coating for holidays in the presence of the CPS Energy representative.

All repairs to damaged coating which exceeds 2 square inches will be made by breaking out the old coating, scraping the pipe to bare metal, feathering the edges to assure a firm bond and repriming. After the primer has dried to a tacky consistency, apply cold wrap tape taking care not to create any voids between the pipe and the tape coating. For repairs less than 2 square inches, the pipe need not be scraped to bare metal and primed; however, the good enamel around the damaged portion shall be feathered before the cold wrap is applied.

Compression type couplings, valves, welded fittings, etc., will receive a cold applied mastic after the pipe is in the ditch and they have been tested for leaks. A plastic wrap supplied by CPS Energy will be placed over the mastic to protect the coating during backfilling.

Handling of Coated Pipe - Coated pipe shall be handled only with suitable equipment in such a manner as to prevent damage to the coating. The coated pipe shall be placed on skids alongside the ditch until it is to be welded and lowered into the ditch. The skids shall be of sufficient width or padded with sandbags or resilient pads to prevent the skid edges from cutting the coating and wrapping. The skids shall be arranged to permit the coated pipe to bear on the full width of the skid.

At all times, coated and wrapped pipe shall be carefully handled with wide rubber, leather, composition, or canvas slings or belts containing no protruding rivets or belts that may injure the coating. Wire rope, tongs, chairs, hooks, and bare cables shall not be permitted to come into contact with the coating. Coated pipe shall not be handled when the temperature is low enough to cause cracking of the enamel.

## **16. CATHODIC PROTECTION**

The Contractor shall install packaged anodes, insulating joints and insulating flange sets as provided for in the exhibits. Welding machines will not be used to test insulation or otherwise be grounded across insulating devices. Insulation will be checked by the CPS Energy representative and declared acceptable only after testing establishes satisfactory performance.

## **17. POLYETHYLENE GAS PIPE**

Polyethylene pipe, which is commonly referred to as plastic, PE or HDPE pipe, shall be handled only with suitable equipment in such a manner as to prevent damage to the pipe such as fracture, kinking, deep gouges or cuts. The polyethylene pipe shall not be subjected to abuse by dropping, throwing or dragging except over smooth non-scratching terrain or surface.

An insulated copper wire shall be installed with all polyethylene pipe for the purpose of locating the pipe after backfilling. This wire shall be installed with 2 to 6 inches separation between the tracer wire and the polyethylene pipe. Under no circumstances shall the tracer wire be taped or otherwise secured against the outside wall of the polyethylene pipe or spirally wrapped around the pipe.

Fusion of polyethylene pipe joints shall be done by the Contractor in accordance with requirements of D.O.T., Title 49, Part 192 - Transportation of Natural Gas by Pipeline: Minimum Federal Safety Standards, Paragraphs 192.281, 192.283, 192.285, 192.287.

Prior to starting production fusing under this contract each Contractor employee that will be making polyethylene fusion joints shall qualify according to Paragraph 192.285 of the D.O.T. code using a CPS Energy approved procedure. Qualifying tests will be conducted in the presence of the CPS Energy representative.

The Contractor shall furnish all specialty tools and equipment that are required to handle, install, butt fuse and squeeze-off polyethylene pipe. The Contractor shall insure that all specialty tools and equipment are specifically designed for use on polyethylene piping systems and are in good working condition. The CPS Energy representative shall be allowed to inspect all specialty tools and equipment furnished by the Contractor. The CPS Energy representative may disallow the use of any specialty tools or equipment that are not specifically designed for use on high density polyethylene piping systems or are deemed to not be in good working condition. CPS Energy routinely uses the Steve Vick 6" Mark II Coil Trailer for handling large diameter coiled pipe, McElroy equipment for making butt fusions on polyethylene pipe and Mustang squeeze-off tools for stopping the flow of gas in existing polyethylene piping systems. The Contractor shall be required to provide copies of the original manufacturer's literature for all comparable equipment from other manufacturers. At the sole discretion of CPS Energy, comparable equipment from other manufacturers may be approved for use by the Contractor.

All polyethylene pipe joints shall be tested with soap and water with the line having an internal pressure of between 90 and 120 psig. All pressure tests on polyethylene pipe must be observed and approved by the CPS Energy representative. It shall be the Contractor's responsibility to coordinate pressure tests on polyethylene pipe so that such test can be performed with a CPS Energy representative present.

## **18. LOWERING IN AND BACKFILLING**

The ditch shall be free of rocks and clods before the pipe is lowered into the ditch. No pipe will be lowered into the ditch until the ditch has been inspected and approved by the CPS Energy representative.

All stumps and roots found in the ditch line shall be cut so that they will not come in contact with the pipe. All loose rocks, stones, blocks, skids, chocks, tools, heavy clods, tree limbs, and other items, which may damage the pipe, shall be removed from the bottom of the ditch before the pipe is lowered in.

The ditch shall be excavated with sufficient depth to allow for a minimum thickness of four (4) inches of pit run sand to be placed in the ditch below the pipe. Pit run sand placed in the ditch to cushion the pipe shall be leveled and tamped so that the weight of the pipe is as evenly distributed as possible on solid ground.

Backfilling shall be so conducted that the ditch shall be neatly backfilled and compacted. Rock, gravel or like materials shall not be backfilled directly onto the pipe. The Contractor shall provide and shall haul sufficient pit run sand to be backfilled around and over the pipe to form a protective padding or cushion between the pipe and the rock, gravel and other such unexcavated materials. After the pipe has a six (6) inch minimum cover of pit run sand, the remaining backfill may contain rocks and gravel, except that large rocks in excess of four (4) inches in diameter, width or length, shall not be backfilled into the ditch. Such rocks shall be removed from the right-of-way and disposed of to the satisfaction of the landowner, tenant, and/or CPS Energy representative. Care shall be exercised to prevent hand shovels and tampers from damaging the pipe.

Trenches in public roadways will be backfilled and paved in accordance with the requirements of the governmental authority having jurisdiction over the street or road.

Where paving is cut, backfilling and finishing of the top of the trench will be in accordance with the requirements of the authority having jurisdiction over the pavement. On state highways, U.S. highways, expressways and freeways and their frontage roads, and any streets or roadways that are being maintained or rebuilt by the Texas Department of Transportation (TxDOT), the TxDOT specifications and requirements for backfilling trenches will apply. On county roads, private roads, streets in incorporated townships, driveways or paved parkways the backfill will be a mixture of concrete or other material mixtures with depths as required by the authority having jurisdiction and shall be placed in trench to within one and one-half (1-1/2) inches of the surface of the existing pavement. The Contractor shall apply final and finishing topping to cuts in paving with hot mix, hot lay asphalt. Inspection and approval by the authority having jurisdiction over the pavement shall be obtained by the Contractor before the job will be accepted as completed by CPS Energy.

Backfill in public and private thoroughfares shall be hydra-tamped with special care to prevent settlement or damage to other buried utilities.

The Contractor shall not use soil from the right-of-way except from the spoil bank. Any surplus soil shall be disposed of by the Contractor.

When crossing drainage ditches and minor streams, the Contractor shall furnish and install all materials necessary for bank reinforcement. Such backfill must be properly maintained by the Contractor until the entire job has been completed and accepted by an authorized

representative of CPS Energy. No reimbursement will be made for repairing of backfill due to floods and/or other conditions occurring before final acceptance.

The Contractor shall control the ditching and backfilling so as to have a minimum amount of open ditch commensurate with good construction practices.

As soon as backfill is completed on a section of line, Contractor shall immediately clean up the right-of-way, removing all surplus and defective materials to CPS Energy-designated locations. Disposal of all refuse such as brush, broken skids, rock, etc., shall be to the satisfaction of the CPS Energy representative. Insofar as possible, the earth on both sides of the line ditch which has been disturbed during the construction of the line shall be leveled, and the ditch line shall be left in a condition satisfactory to the CPS Energy representative. All temporary fills and bridges shall be removed and the area cleaned to the satisfaction of the CPS Energy representative. The Contractor shall, at his expense, furnish, haul and install black top soil on the ditch line and right-of-way area where necessary in the opinion of the CPS Energy representative to leave such area in the same condition as existed prior to the commencement of the work and/or to obtain the minimum required cover for the utility lines as specified.

Upon completion of all backfilling and cleaning of the right-of-way, permanent repairs shall be made to all fences by using equivalent or new fencing materials. All fence repairs must be satisfactory to CPS Energy representative. These repairs are to be made by Contractor at no extra compensation.

## **19. FINAL PIPING CONNECTIONS AND/OR TIE-INS**

The Contractor will make all connections of new gas lines to existing gas lines. This includes all necessary preparations for tie-ins and purging for all sections of gas lines installed by the Contractor. The Contractor will be required to weld short stop fittings and other necessary fittings on existing steel gas lines that will be used by CPS Energy personnel to control the flow of gas into the new gas lines. CPS Energy personnel will control the flow of gas on all operative gas facilities while the Contractor is making final piping connections and/or tie-ins.

The Contractor shall be responsible for insuring that all tie-ins between new and existing gas mains are performed in a safe manner. The Contractor shall furnish all necessary equipment and instrumentation that is required to insure that the final tie-in welds and/or fusions between new and existing gas facilities are performed in a safe manner. Such equipment and instrumentation may include pneumatic air movers, combustible gas indicators (CGI's), oxygen monitors, self-contained breathing apparatus and fire retardant clothing for construction personnel, and fire extinguishers.

## **20. REMOVAL OF EXISTING PIPE**

The asphaltic wrap on pipe removed under this contract may contain asbestos. In handling the pipe (including the excavation, cutting, removal, loading and unloading of such pipe), Contractor shall observe all State and Federal worker protection regulations and standards, and all environmental and public safety standards that are applicable to such work, including the

OSHA standard found at 29 CFR Section 1926.1101, and following, that relates to the occupational exposure standard to asbestos for the construction industry.

The Contractor will indicate in its bid the manner in which the pipe shall be managed after removal. For example, Contractor shall indicate whether the pipe will be disposed at a licensed landfill facility, will be recycled as pipe by Contractor, will be sold to and recycled as pipe by a third party, will be recycled by a third party as scrap metal, etc. If dealing with a third party, Contractor shall identify the various third parties Contractor will rely upon to provide the indicated services.

For all pipe removed from the ground under the terms of this contract, Contractor shall place the following notice, beginning approximately two (2), feet from each end of the pipe, in stenciled or comparable lettering, i.e. not attached labels, of not less than 3 inches in height;

### **PIPE WRAP MAY CONTAIN ASBESTOS**

Upon removal of the pipe from the ground, ownership of the pipe is transferred to the Contractor.

## **21. PURGING NEW GAS FACILITIES**

CPS Energy personnel will purge the new gas mains, and the Contractor will purge all new gas service lines or existing gas service lines that have been tied-over to the new gas mains or otherwise adjusted.

## **22. GOODWILL OF GAS CUSTOMERS & RESIDENTS IN THE WORK AREA**

The Contractor shall make reasonable efforts to create goodwill among the property owners, tenants and lessees along the right-of-way of the gas construction project.

**For this reason, no gas service shall be cut-off after 2:30 p.m. each day. All gas services that have been cut-off during the day must be restored before 4:00 p.m. that same day. If the Contractor is consistently late in restoring gas service by 4:00 p.m., the contract may, at CPS Energy's discretion, be adjusted to reflect an earlier cut-off time.**

**When customer gas service is to be interrupted, the Contractor must use CPS Energy approved door-hangers to inform the customers of the impending construction activity. The door-hangers must be placed on the front door of each residence at least 48 hours prior to construction, and the Contractor must contact each customer by telephone or in person before the gas service is cut off.**

The Contractor shall provide approved sanitary facilities in sufficient quantities and at such locations as may be needed for workers on the job.

## **24. WORKDAYS, WORKING HOURS AND HOLIDAYS**

Normal working hours for this contract shall be from 7:30 a.m. to 4:00 p.m. Work days shall include Monday through Friday, except for holidays. Holidays shall include the following days: New Year's Day, San Jacinto Day (observed on Friday of Fiesta Week), Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, and Christmas Day. If the holiday falls on a Saturday, it will be observed on the preceding Friday. If the holiday falls on a Sunday, it will be observed on the following Monday. Christmas Eve and New Year's Eve will be observed as holidays when Christmas Day and New Year's Day fall on Tuesday through Friday. Exceptions to these working hours and work days will be allowed by CPS Energy when required by the governing entity, mutually agreed upon by both Contractor and CPS Energy or the customer approves or requests work to be performed outside of these established times. **At the sole discretion of CPS Energy, service renewal work can be suspended during periods of extremely cold weather.**

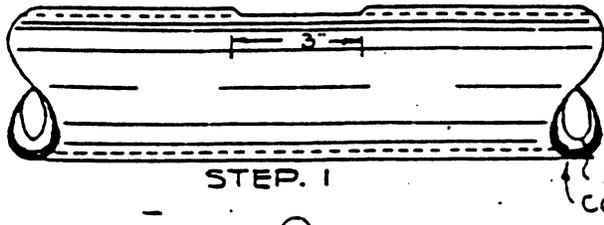
## **25. ACCEPTANCE**

The CPS Energy representative will make all inspections and final acceptance of the work performed by the Contractor for CPS Energy.

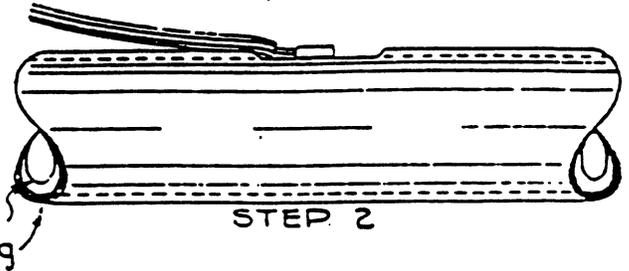
As required by CPS Energy, Contractor shall maintain and provide a copy of the "as-built" job sketch and all associated documents once the work is completed.

**CPS  
Design Standards  
(Steel Gas Pipe)  
Exhibit GAS-3**

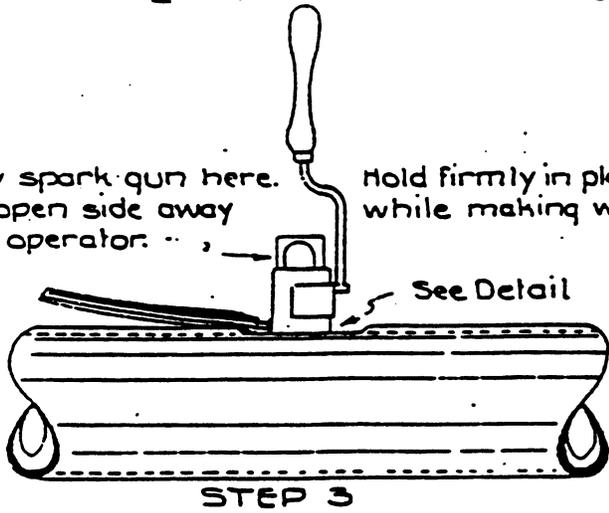
Remove a section of coating 3" long and file pipe bright so that a space 1" wide and 2" long is clean and dry.



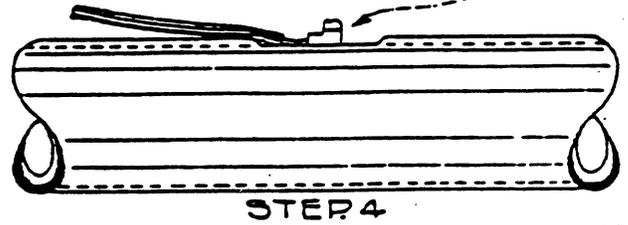
Strip 1/2" of insulation from wire and place copper sleeve on #10 and smaller wire.



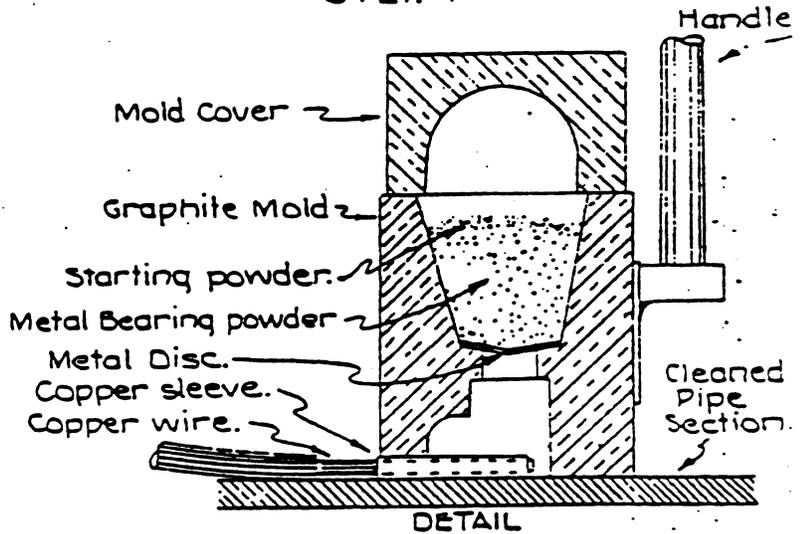
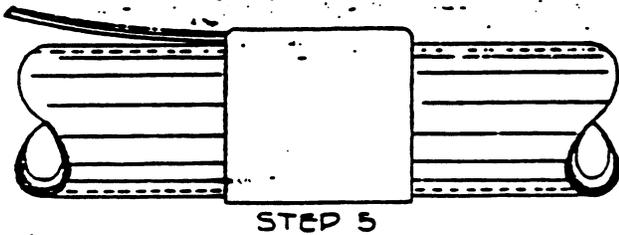
Apply spark gun here. Keep open side away from operator. Hold firmly in place while making weld.



Remove slag with hammer and paint thoroughly with primer.



Repair pipe coating with care. Cover entire weld.



**IMPORTANT**

1. REMOVE RED CAP OF CADWELD CARTRIDGE AND DUMP ALL OF CONTENTS INTO MOLD. THE CHARGE WILL NOT IGNITE WITHOUT THE FINE STARTING POWDER ON TOP.
2. THE CARTRIDGES MUST BE KEPT DRY AT ALL TIMES.

Cadweld mold with sleeve for #10 wire and smaller.

CITY PUBLIC SERVICE BOARD  
SAN ANTONIO, TEXAS  
GAS DEPARTMENT

COPPER WIRE CONNECTION TO PIPE USING CADWELD.

INSTRUCTION SHEET - TYPE TB-3 WELDER**PREPARATION OF SURFACE:**

To obtain a good weld, surface must be bright clean and dry.

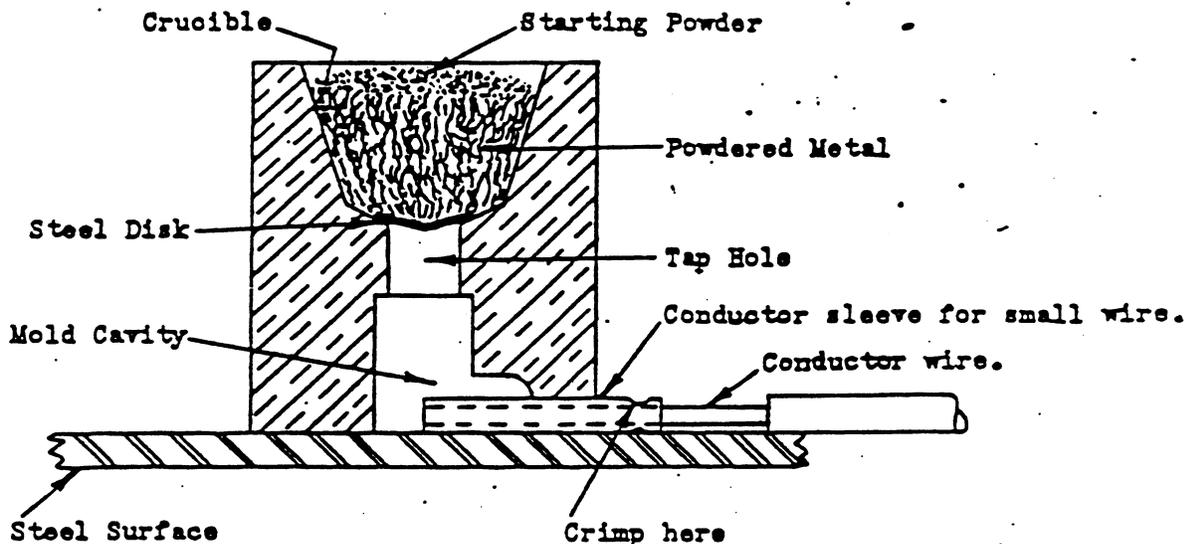
Steel surface should be ground or filed to remove all scale, rust, grease and dirt.

Galvanized steel must be cleaned with emery cloth to remove oxide.

**PREPARATION OF WIRE:**

Strip the insulation from the conductor and scrape until wire is bright and clean.

For #10 and smaller sizes, place the wire in a copper sleeve, ends flush, and crimp the sleeve tightly to the wire at the insulation to provide additional mechanical strength at the weld.

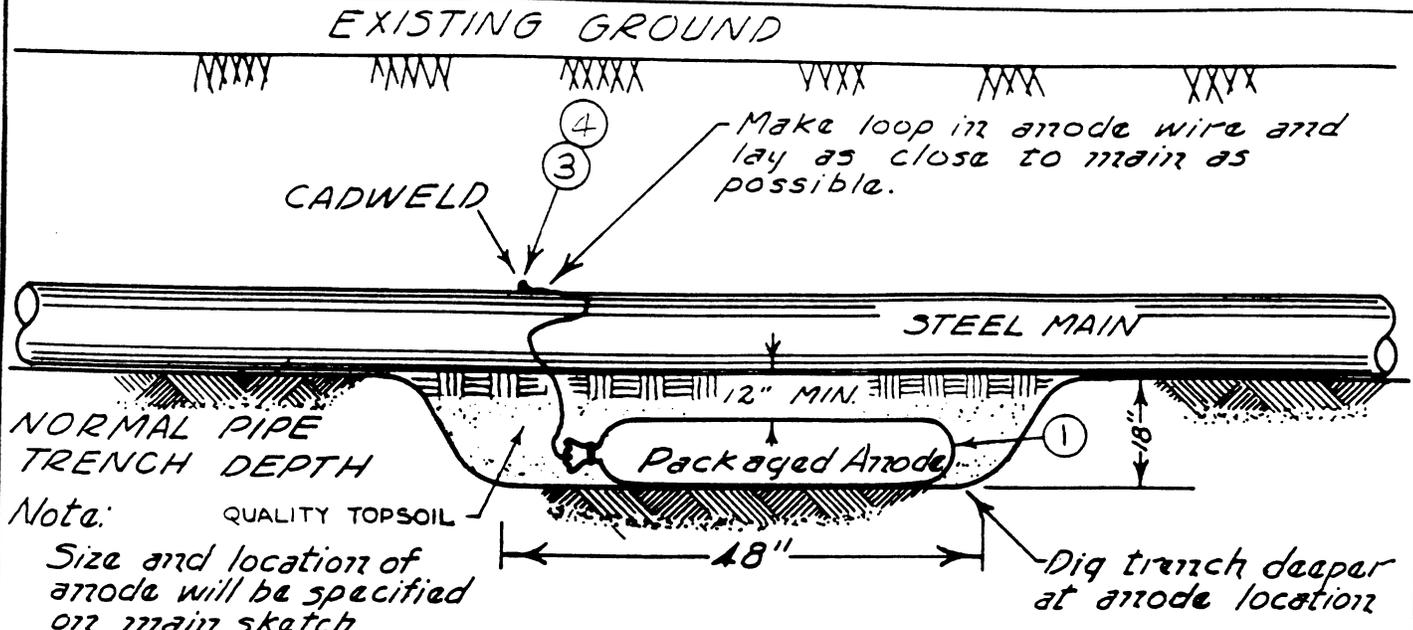
**WELDING PROCEDURE:**

- (1) PLACE WELDER OVER CLEAN STEEL SURFACE and insert the wire until it is under the CENTER of the tap hole.
- (2) COVER TAP HOLE WITH STEEL DISK.
- (3) DUMP CARTRIDGE IN CRUCIBLE AND CLOSE COVER. (Tap bottom of cartridge to be sure starting powder is emptied). Replace empty cartridge in box to keep remaining cartridges in an upright position.
- (4) HOLD DOWN ON WELDER TO PREVENT LEAKS AND IGNITE WITH FLINT GUN. Jerk gun away to prevent fouling. Should gun become fouled, soak in Spirits of Ammonia.
- (5) DO NOT REMOVE WELDER UNTIL METAL HAS SOLIDIFIED.
- (6) ALL SLAG MUST BE CLEANED FROM MOLD BEFORE MAKING NEXT WELD.

Note: Wet or damp molds produce porous welds. Mold can be dried out by firing a charge before making the desired weld.

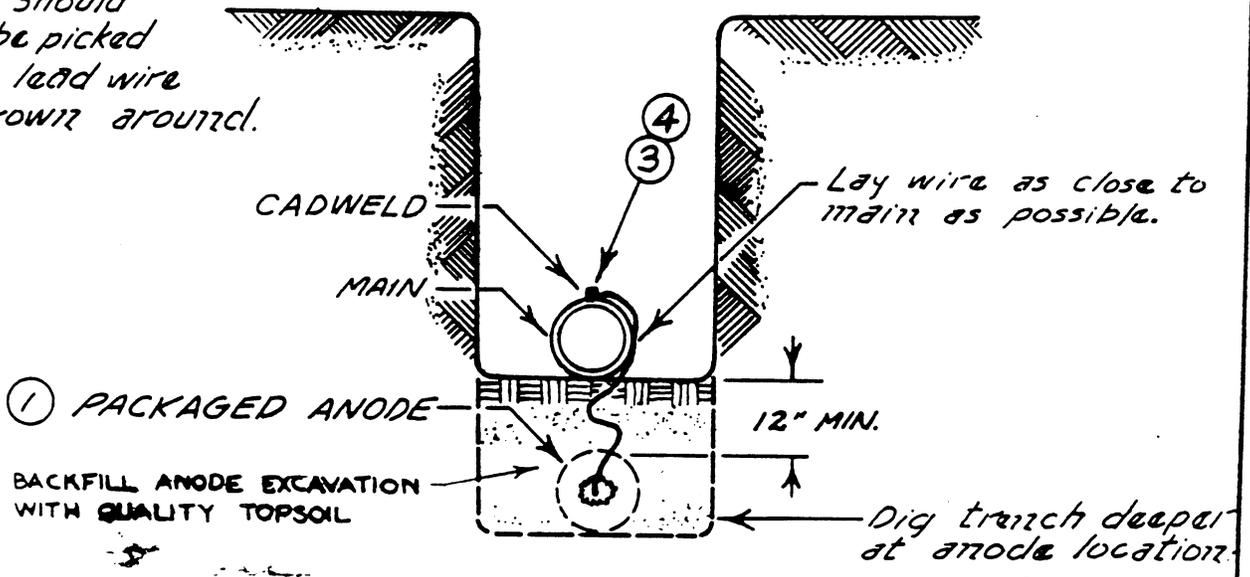
4.5

PACKAGED ANODES



*Note:* Size and location of anode will be specified on main sketch.

*Anode should never be picked up by lead wire or thrown around.*

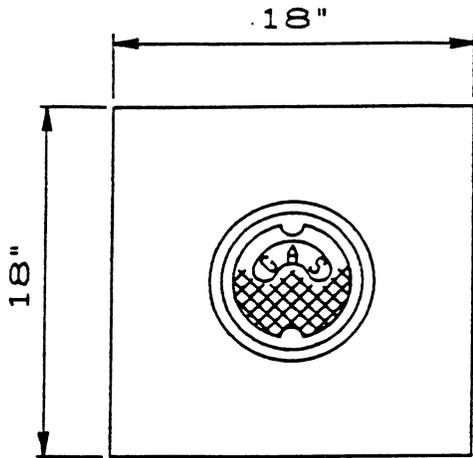


NOTES:

- a. Cadweld connection to be primed and coated carefully.
- b. Packaged anode should be covered with fine soil containing no rocks, clods, or sand.
- c. Pour 5 gallons of water over anode location and tamp thoroughly.
- d. Provide test leads when specified. (See test lead standard)
- e. Anode specification sheet will be attached to main order, and is to be completed by the main construction foreman.

ISSUED	9-1-70	APPROVED	CJH	CITY PUBLIC SERVICE BOARD	DRAWING DS-33
REVISED					CONSTRUCTION STANDARD (GAS)

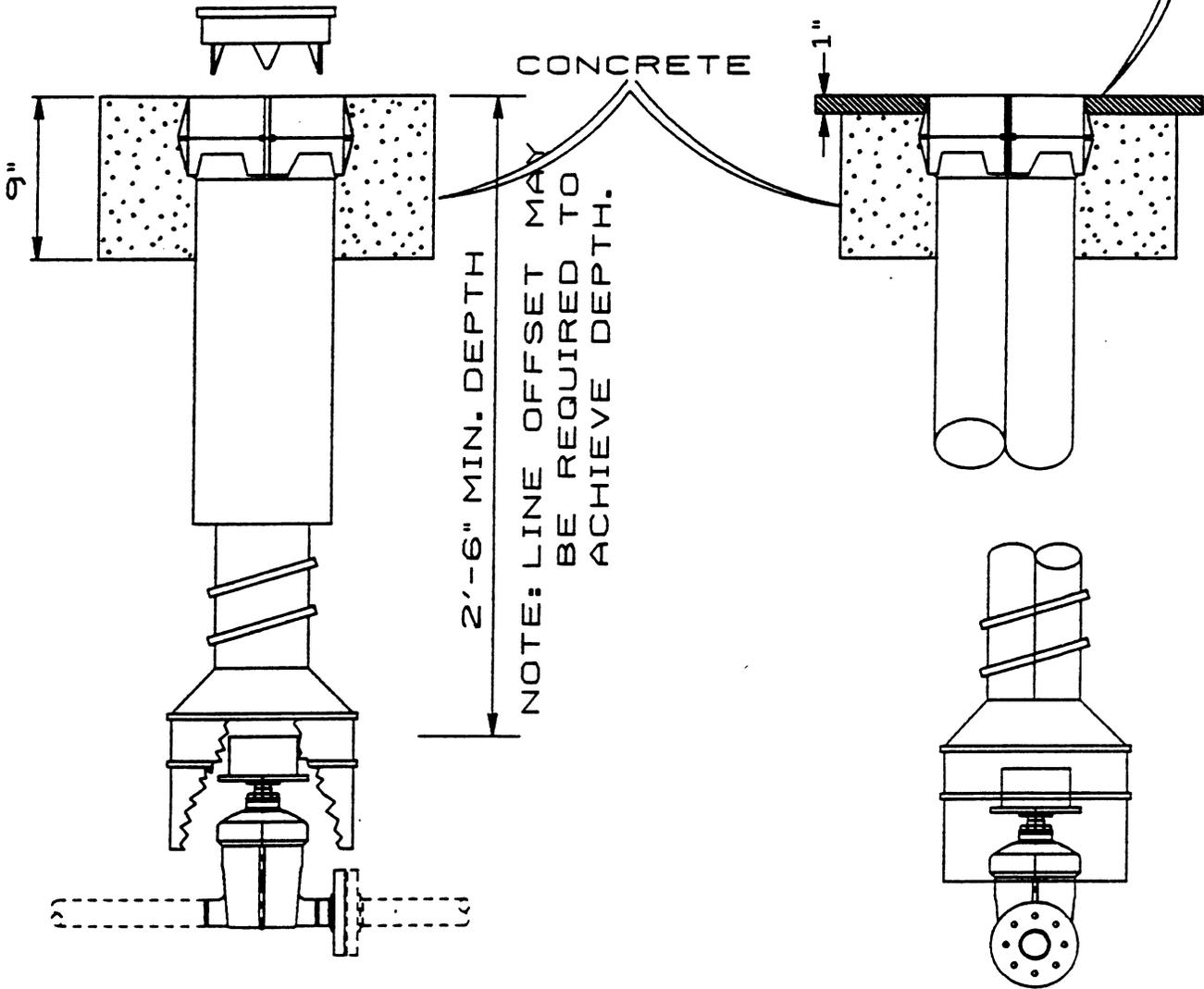
VALVE, STEEL  
(WELD x FLANGE)



CAM UNITS
VGS2WXF
VGS4WXF

NOTE: TAMP & BACKFILL  
VALVE BOX ABOVE  
PIPE.

OPTIONAL METHOD FOR  
ASPHALT STREETS

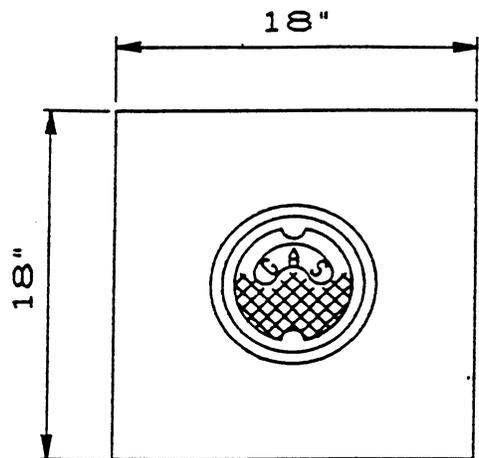


NOTE: COAT VALVE UP TO TOP OF PACKING GLAND.

AVAILABLE SIZES: 2. 4      Page 5 of 19

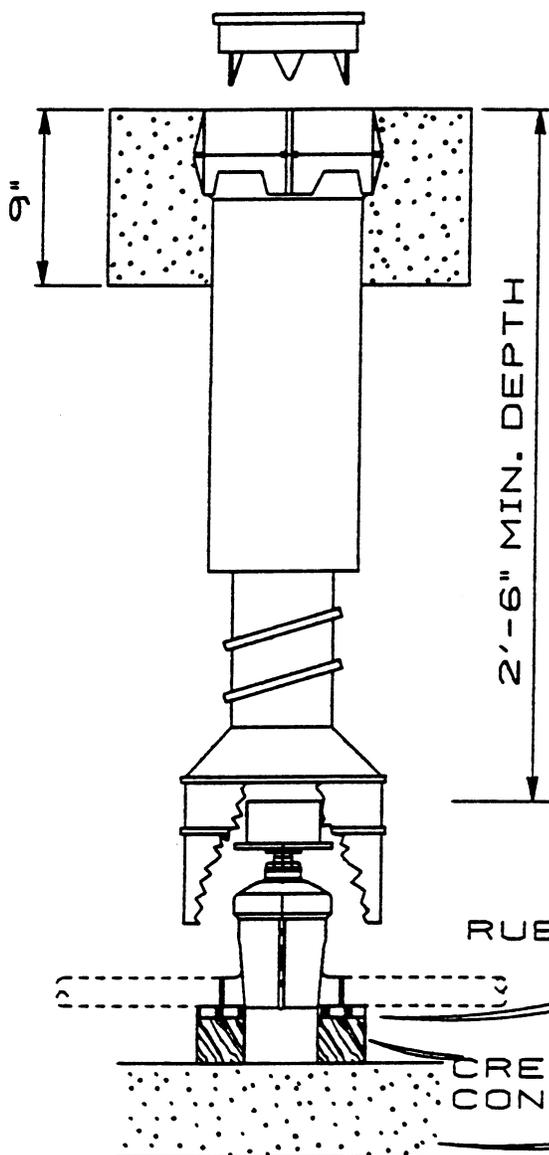
ISSUED	DATE	APPROVED	CITY PUBLIC SERVICE CONSTRUCTION STANDARD (GAS)	G - S - 127 - 1 - 0
REVIS				DRAWING DS-36

VALVE, STEEL  
(WELD x WELD)



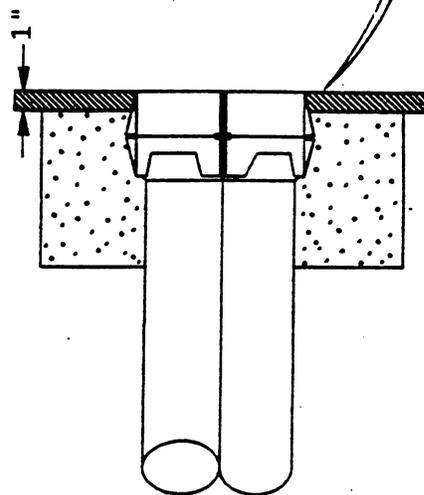
CAM UNITS	
VGS2WE	VGS8WE
VGS4WE	VGS12WE
VGS6X8WE	VGS16WE

OPTIONAL METHOD FOR ASPHALT STREETS



CONCRETE

NOTE: LINE OFFSET MAY BE REQUIRED TO ACHIEVE DEPTH.  
2'-6" MIN. DEPTH



RUBBER SUPPORTS (6)

CREOSOTE TIMBER CONCRETE SUPPORT (11)

NOTE: ITEMS 6 AND 11 ARE TO BE INSTALLED FOR 12" VALVES, OR LARGER. COAT VALVE UP TO TOP OF PACKING GLAND.

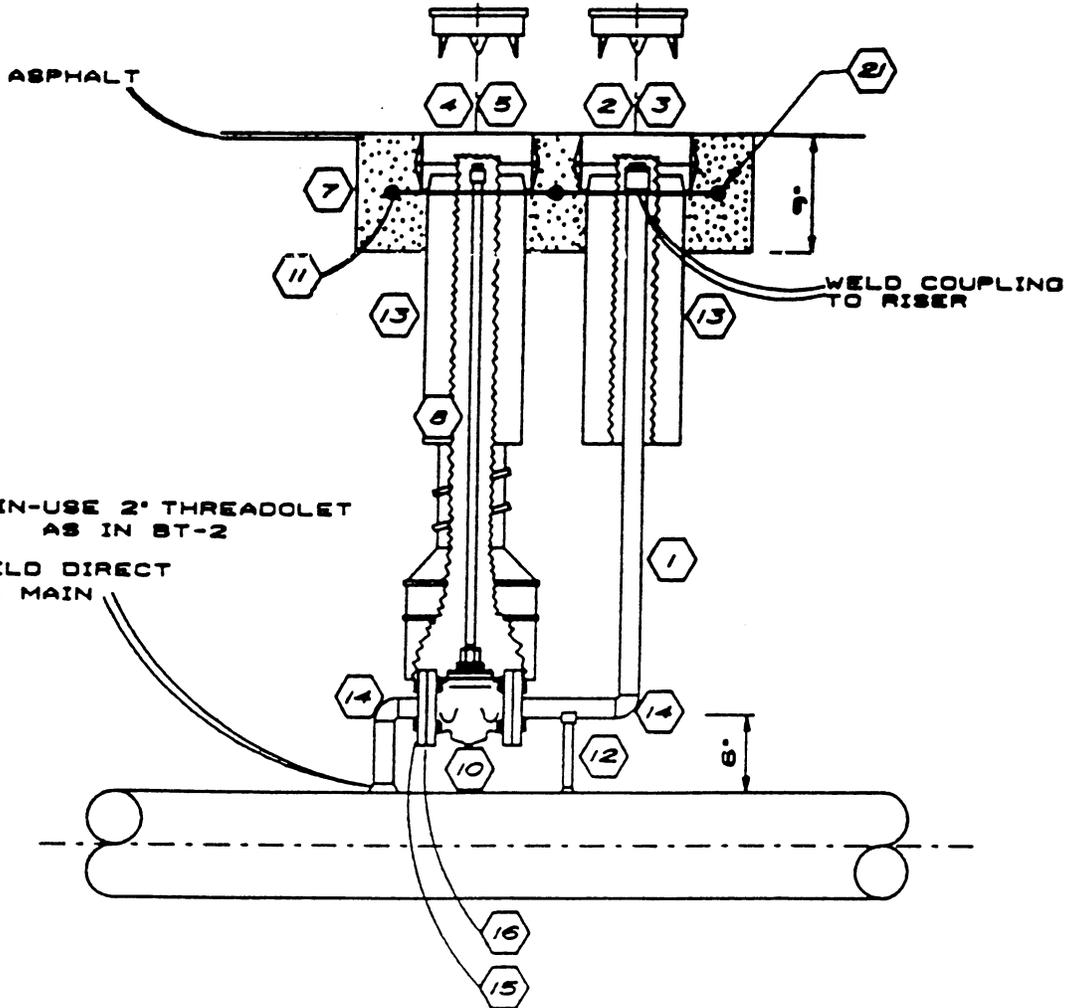
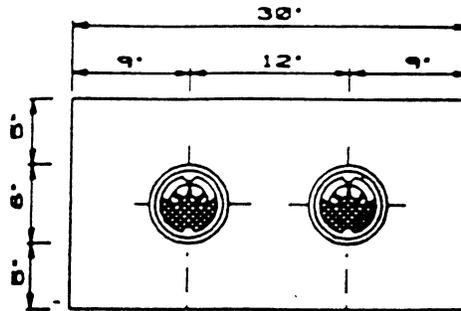
AVAILABLE SIZES: 2, 4, 8x6, 8, 12

Page 6 of 19

ISSUED	DATE	APPROVED	CITY PUBLIC SERVICE CONSTRUCTION STANDARD (GAS)	G - S - 127 - 2 - 0
REVISID				

TEST RISER 2 IN.

EXHIBIT DST-3



NOTE:  
 EXISTING MAIN-USE 2" THREADOLET  
 AS IN ST-2  
 NEW MAIN-WELD DIRECT  
 TO MAIN

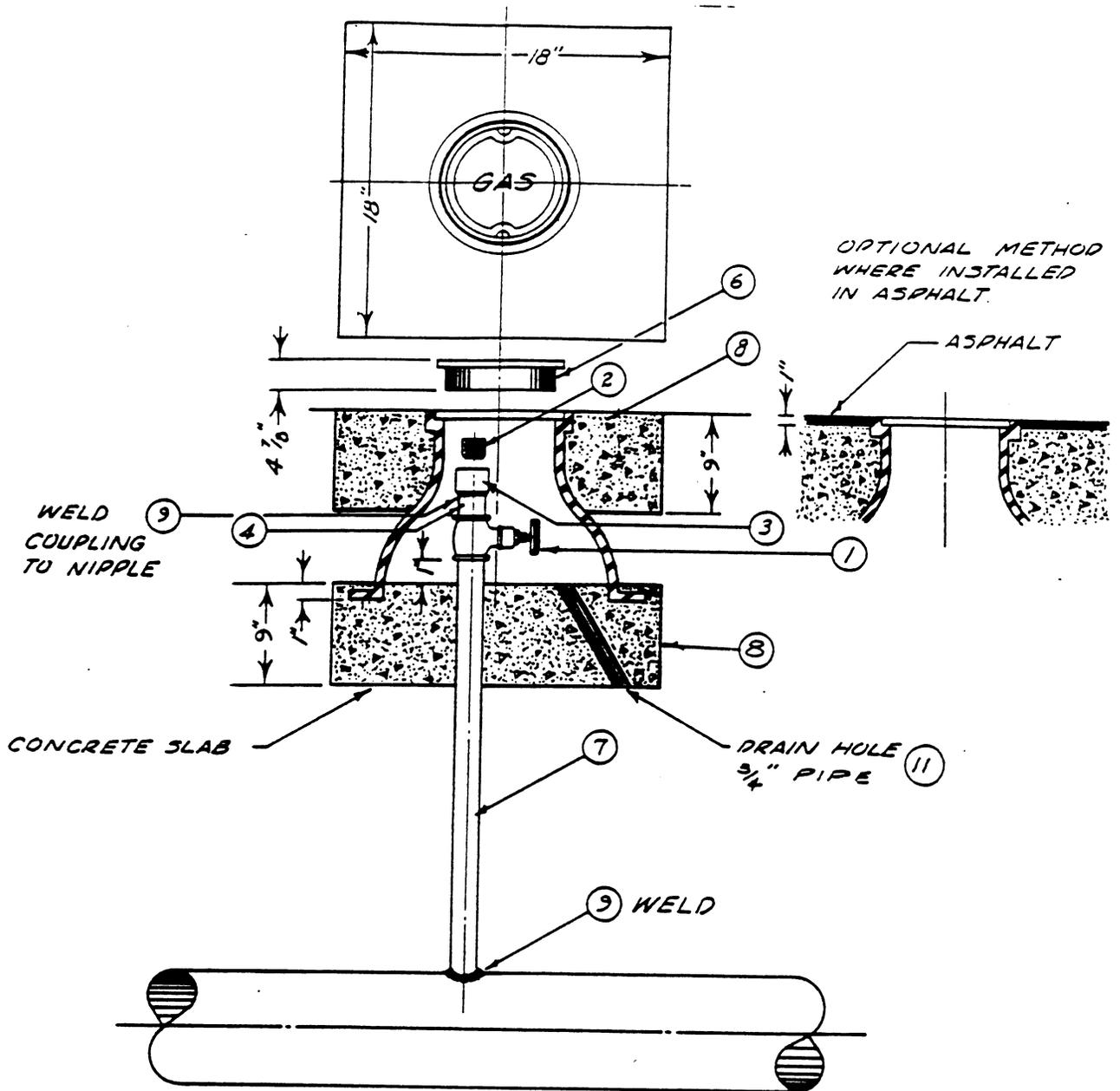
DATE	APPROVED
9/2/92	<i>D. Vogel</i>
ISSUED	
REVISED	

CITY PUBLIC SERVICE  
 CONSTRUCTION STANDARD (GAS)

0 - 9 - 142 - 1 - 1  
 PLANNER, M. BLYTHE

4.5

TEST RISER, 1 IN.

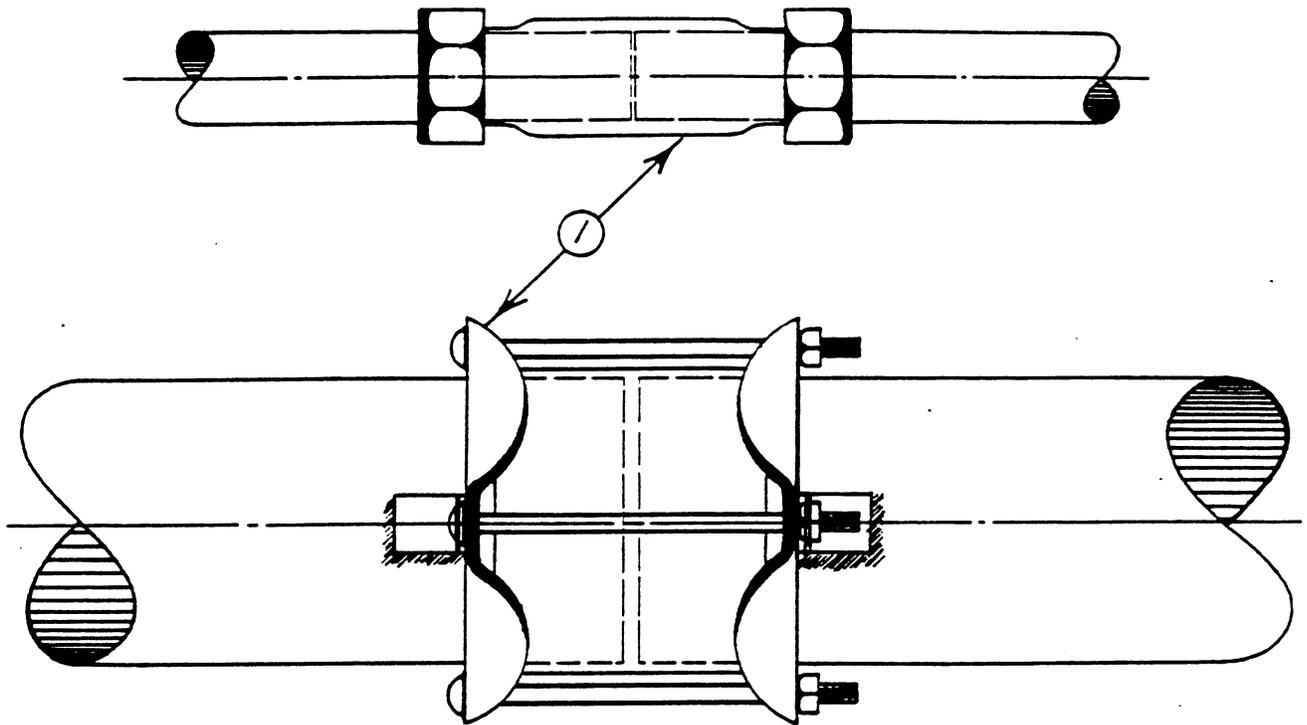


	DATE	APPROVED	CITY PUBLIC SERVICE BOARD CONSTRUCTION STANDARD (GAS)	DRAWING DS-39
ISSUED	9-1-70	WHP		G-S-141-1-0
REVISED				

4.5

COUPLING, BONDED

WITH WELD LUGS



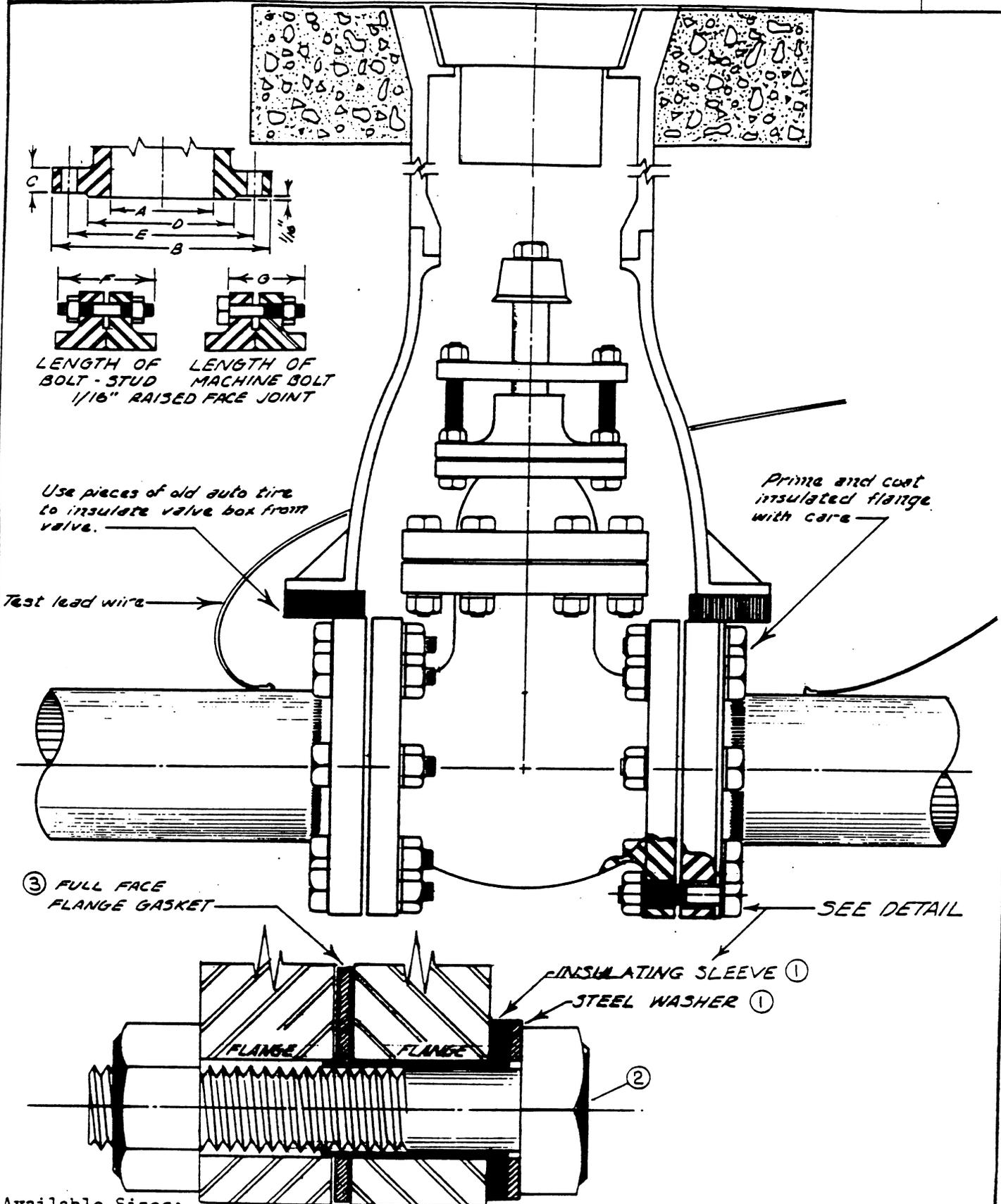
- NOTE: 1 All couplings to be centered over pipe joint with minimum spacing between pipe ends. Spacing shall not exceed 1".  
 2 File pipe to bright finish over areas covered by bonding gaskets. Area should be a minimum of 2-1/2" wide.  
 3 Lubricate gaskets with soap water before installing.  
 4 Tighten all bolts on coupling uniformly.

AVAILABLE SIZES: 3/4", 1", 1-1/4", 1-1/2"  
 2", 4", 8", 12", 16", 18", 20", 24", 30"

ISSUED	DATE	APPROVED	CITY PUBLIC SERVICE BOARD CONSTRUCTION STANDARD (GAS)	DRAWING DS-40
REVISED	9-1-70	CJH		G-S-051-1-1

4.5

INSULATE FLANGE



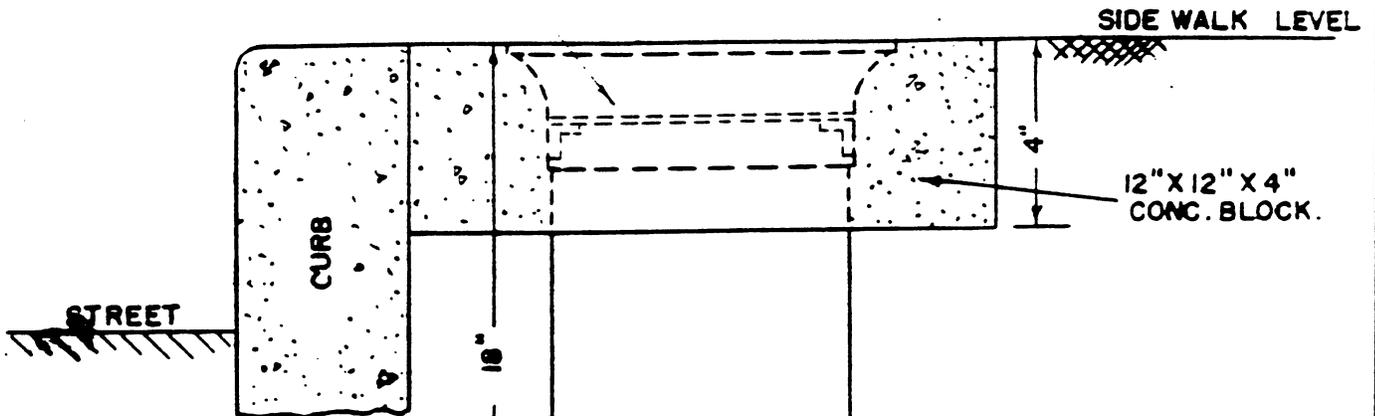
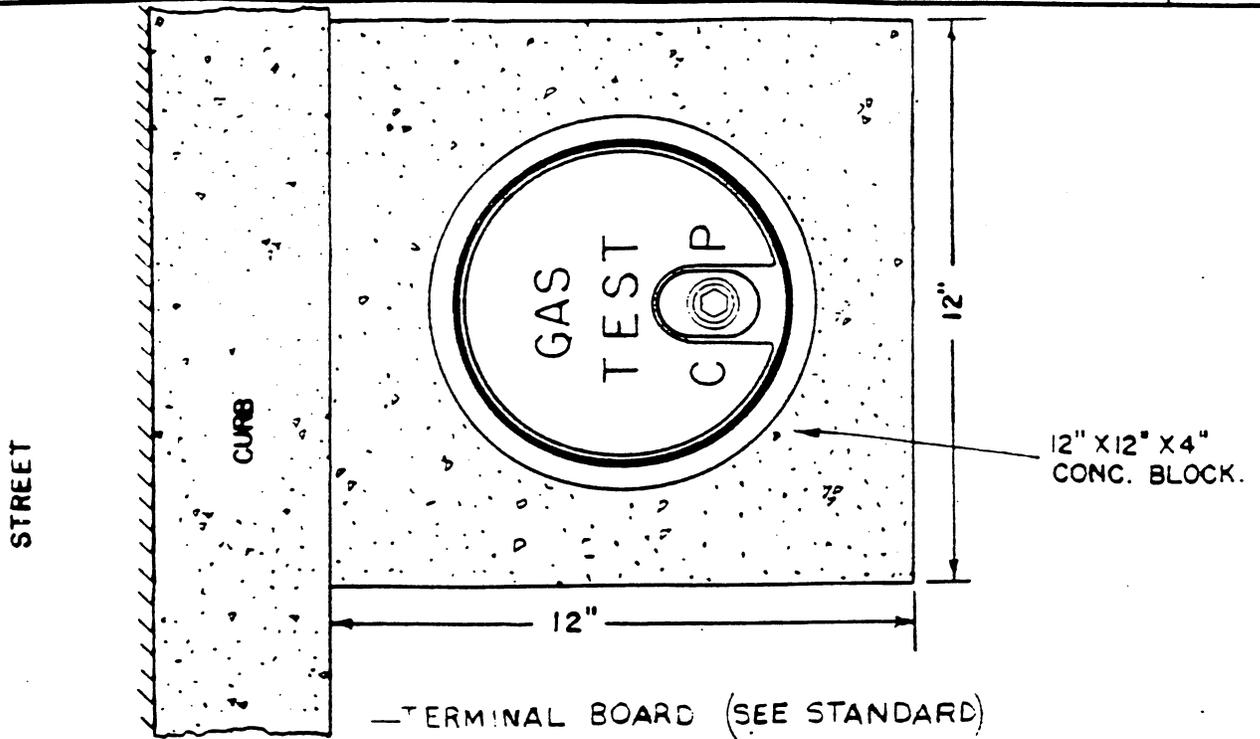
Available Sizes:

150# Flg (2, 4, 8, 12, 16); 150# Exist Flg (2, 4, 8, 12, 16); 300# Flg (8, 12, 16, 20)

ISSUED	DATE	APPROVED	CITY PUBLIC SERVICE BOARD CONSTRUCTION STANDARD (GAS)	DRAWING DS-41
REVISD	9-1-70	JH		G-S-118-1-1

4.5

CATHODIC PROTECTION TEST POINT



NOTE:

1. BE SURE BOTTOM OF TEST LEAD OFFON IS AT-LEAST 6" BELOW END OF TEST POINT BARREL.

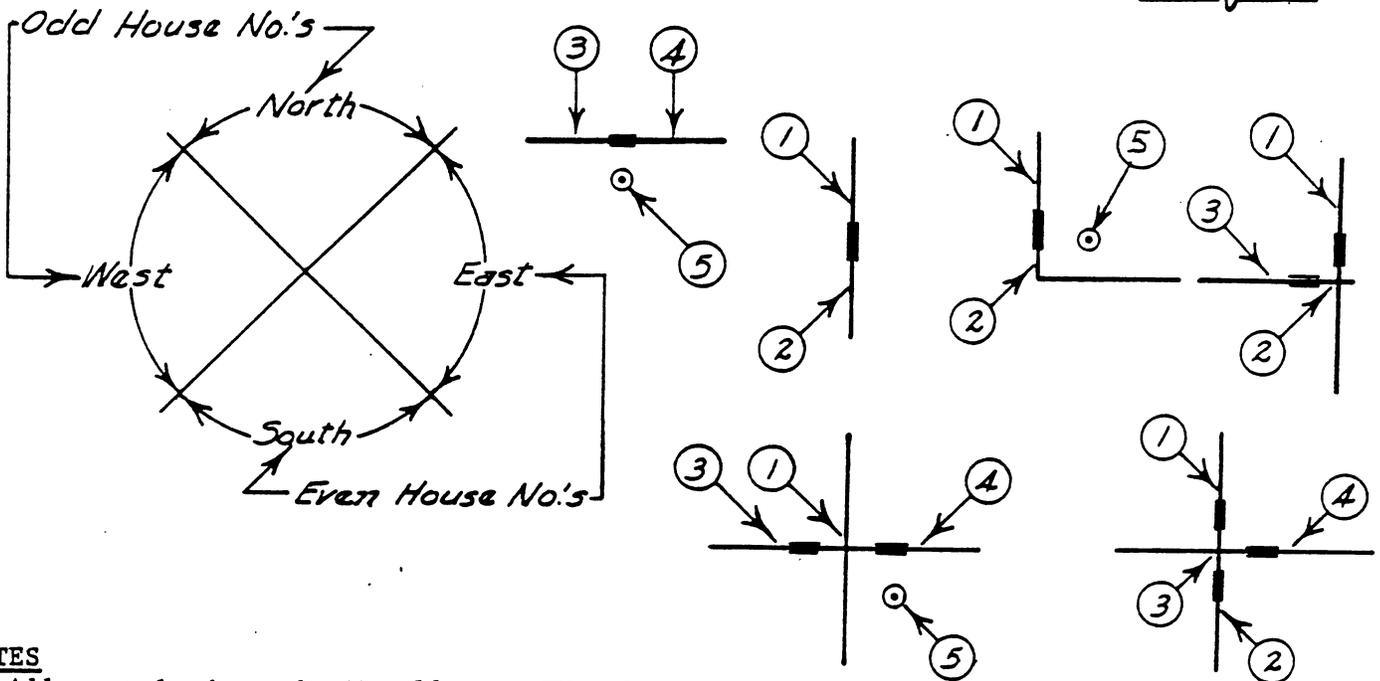
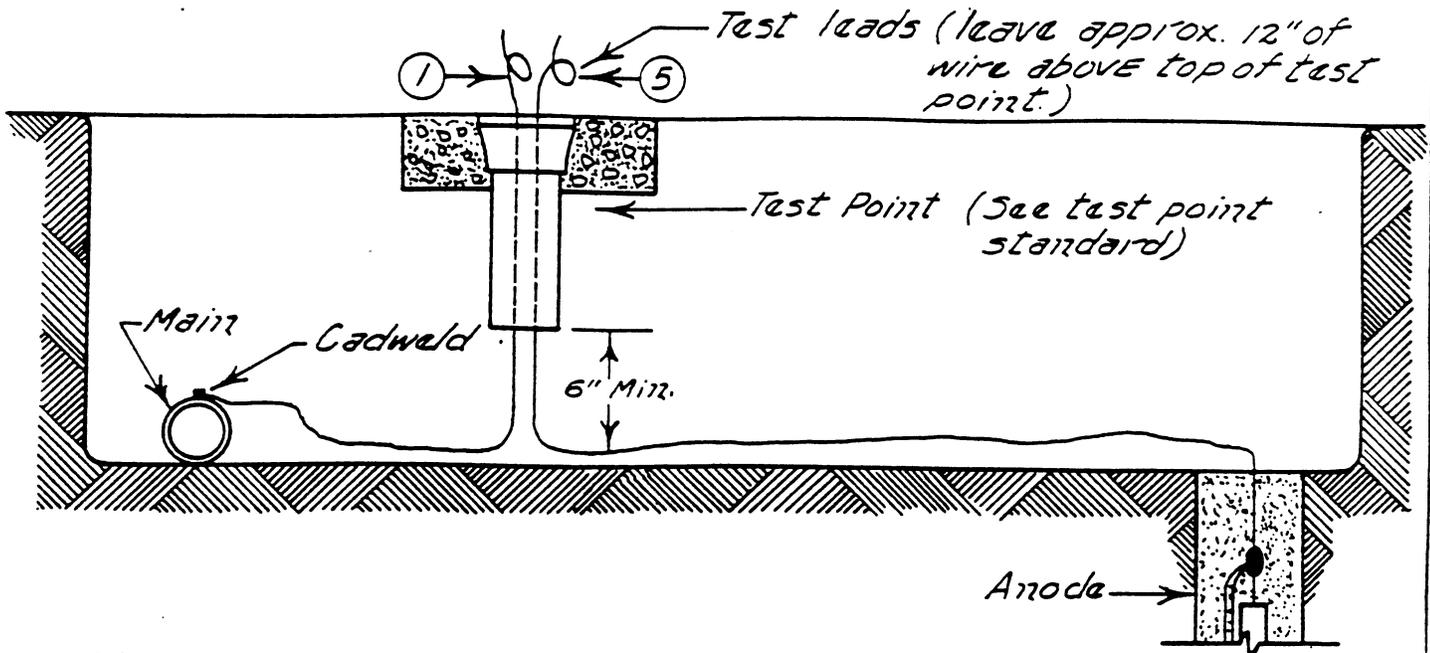
2. TEST POINT RECORD SHEETS WILL BE ATTACHED TO MAIN ORDER AND ARE TO BE COMPLETED BY MAIN FOREMAN.

TEST LEADS (NO 10 TYPE TW COPPER WIRE)

	DATE	APPROVED	CITY PUBLIC SERVICE BOARD	DRAWING DS-42
ISSUED	9-1-70	CJP		G-S-182-2-0
REVISED				

4.5

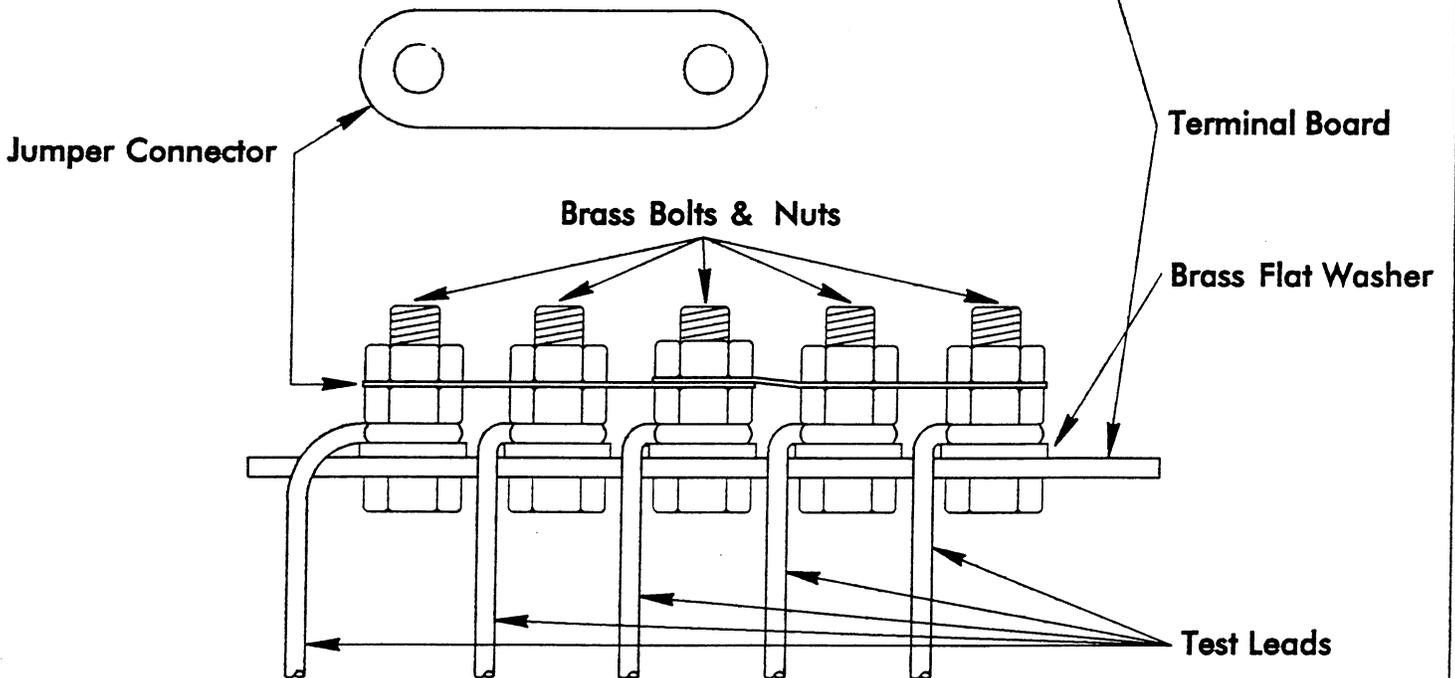
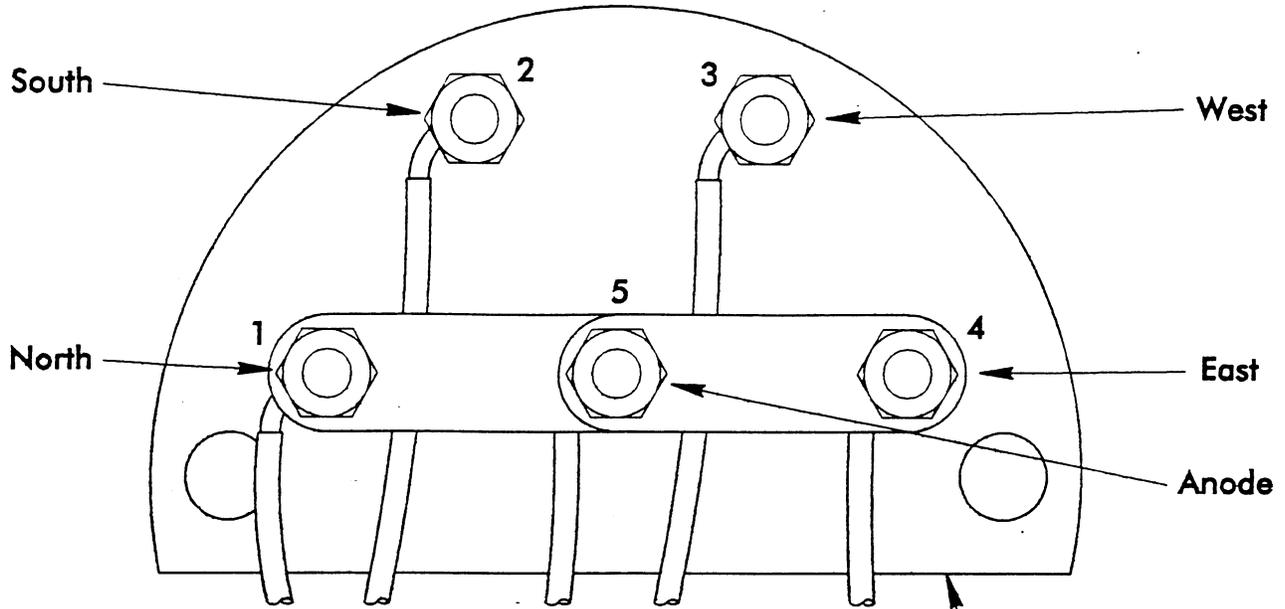
CATHODIC PROTECTION TEST LEAD CONNECTION TO MAIN



NOTES

1. All test leads to be No. 10 type TW solid copper wire.
2. Test point record cards will be attached to main order, and are to be completed by the main foreman.
3. All test leads should be tagged with a metal tag about 6" from end of lead according to the following numbering code:
  - 1 North
  - 2 South
  - 3 West
  - 4 East
  - 5 Anode

	DATE	APPROVED	CITY PUBLIC SERVICE BOARD	DRAWING DS-43
ISSUED	9-1-70	CJH		G-S-182-1-0
REVISED				

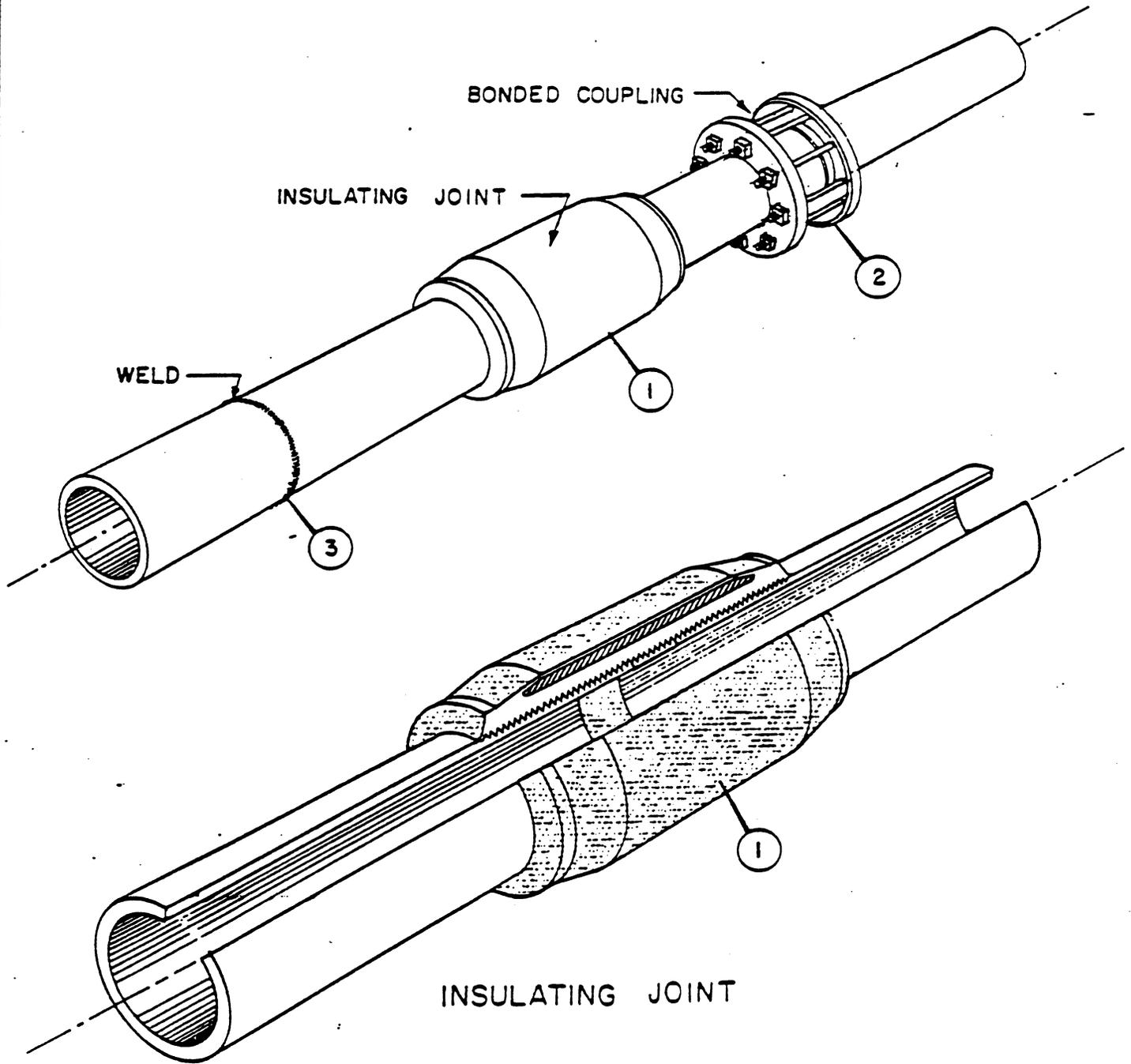


**Note:**  
Connect test leads on top side of terminal board

	Date	Approved
Issued	11-28-94	<i>M. Kotara</i>
Revised		

4.5

INSULATING JOINT 8" & 12"



AVAILABLE SIZES: 8" & 12"

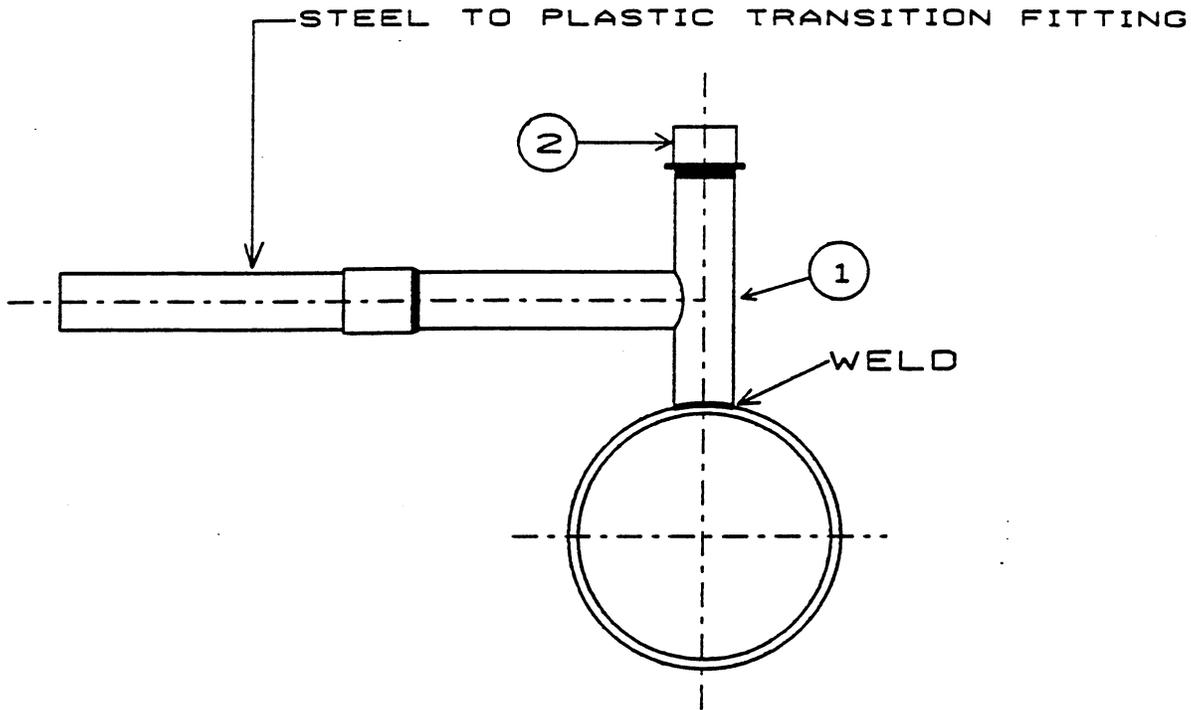
DATE	APPROVED	CITY PUBLIC SERVICE BOARD CONSTRUCTION DRAWING (GAS)	DRAWING DS-45
ISSUED 6/5/80	S.R.L.		







TEE SERVICE WELDED TRANSITION  
STEEL TO PLASTIC



SIZE SERVICE	DRILL SIZE
1"	7/8"
1-1/4"	1-1/8"

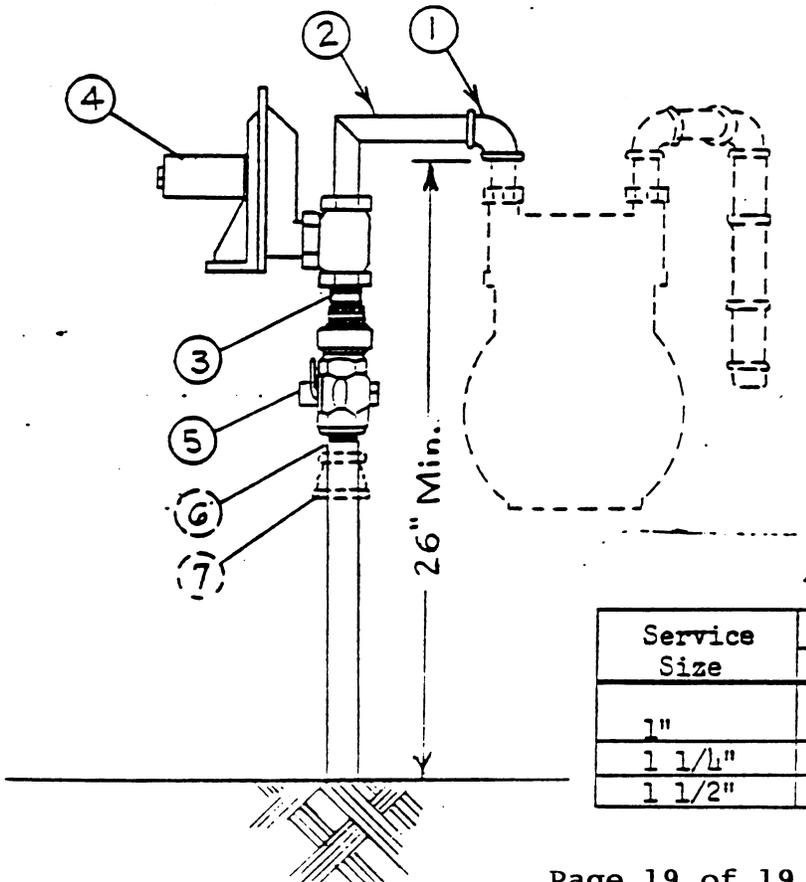
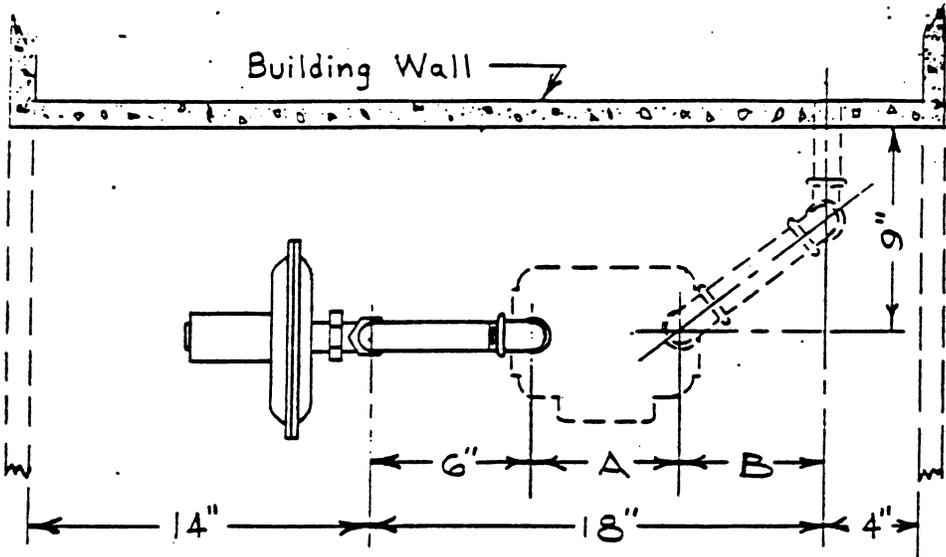
TEE SERVICE WELDED TRANSITION STEEL TO PLASTIC 1"  
C.P.S. STOCK \*520700204  
TEE SERVICE WELDED TRANSITION STEEL TO PLASTIC 1 1/4"  
C.P.S. STOCK \*520700220

ISSUED	DATE	APPROVED	CITY PUBLIC SERVICE CONSTRUCTION STANDARD (GAS)	G - 8 - 127 - 2 - 8
REVIS				DRAWING DS-49

4.5

RISER AND REGULATOR FOR 5, 10, 30 & 35 LT. METERS

NOTE: FOR DIMENSIONS OF METERS REFER TO EXHIBIT 8-1 IN THE PLANNING INSTRUCTIONS.



Available Sizes: ●

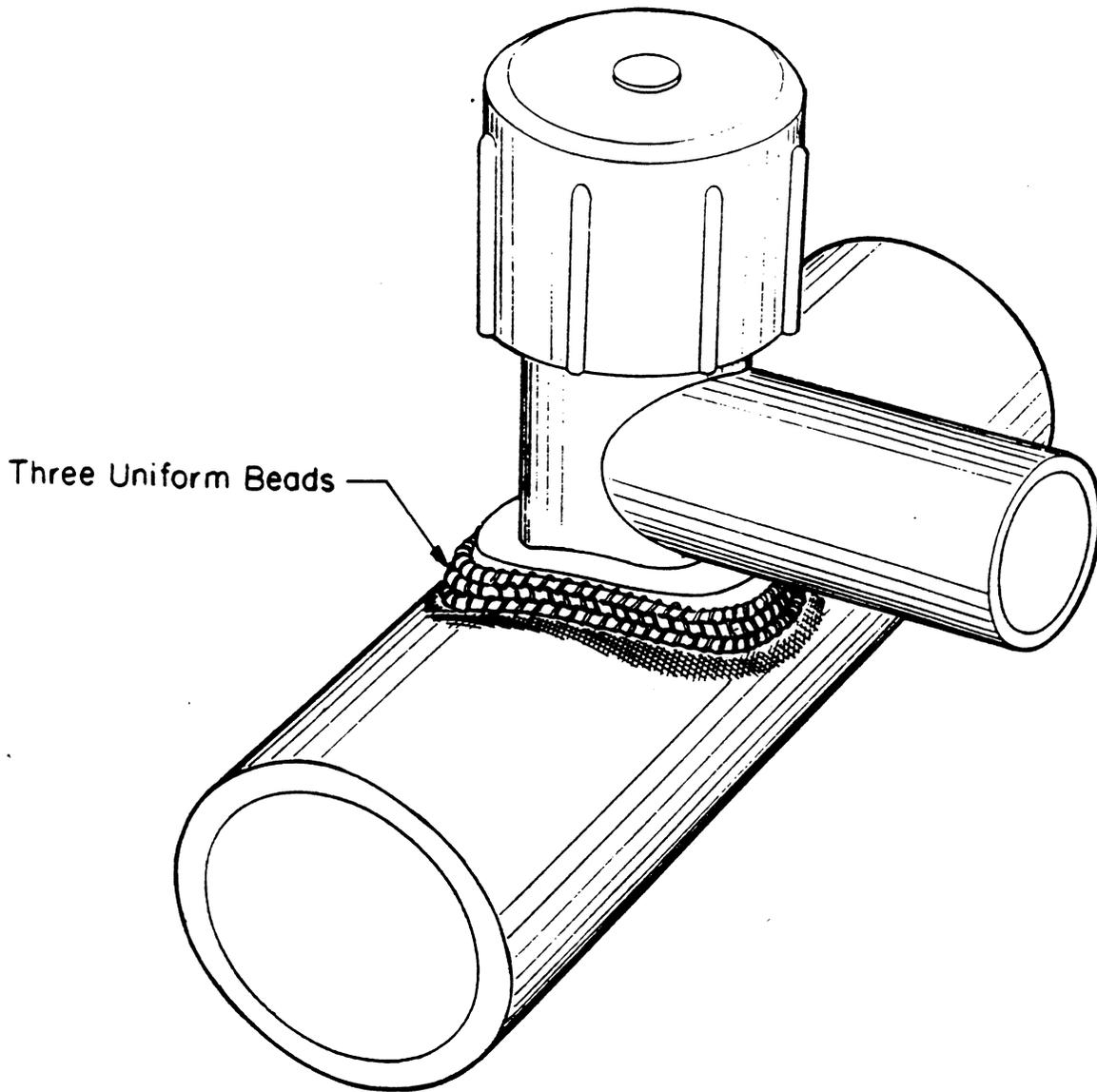
Service Size	Size of Meter Connection		
	1"	1 1/4"	1 1/2"
1"	●	●	●
1 1/4"	●	●	●
1 1/2"			●

ISSUED	DATE	APPROVED	CITY PUBLIC SERVICE BOARD CONSTRUCTION STANDARD (GAS)	DRAWING DS-50
REVISED				G-S-222-1-1

**CPS**  
**Design Standards**  
**(Plastic Gas Pipe)**  
**Exhibit GAS-4**

4.5

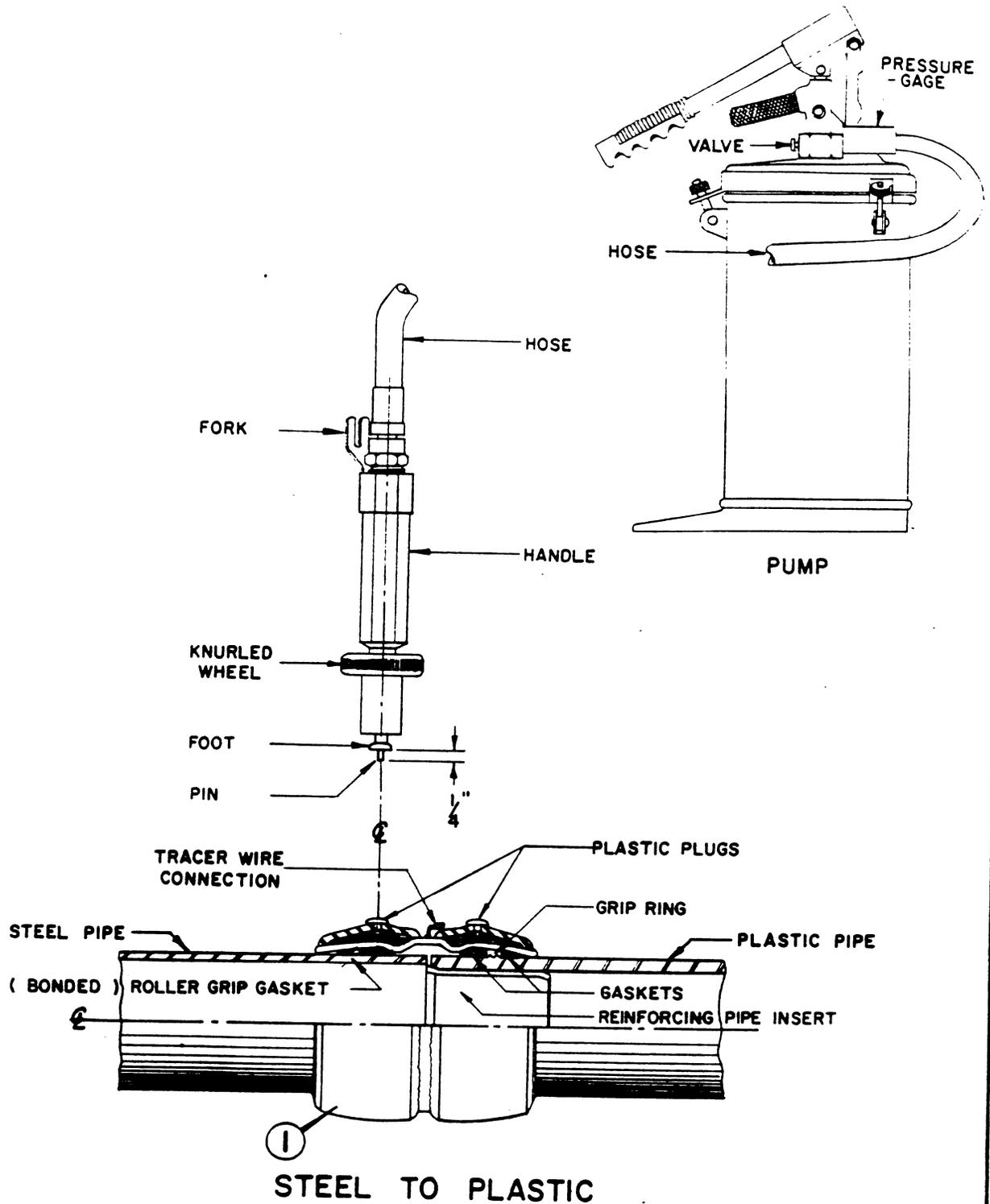
PLASTIC PIPE, TAPPING TEE



	DATE	APPROVED	CITY PUBLIC SERVICE BOARD CONSTRUCTION STANDARD ( GAS )	DRAWING DS-21
ISSUED	3/00	RKJ.		G-S-505-6-0
REVISED				

4.5

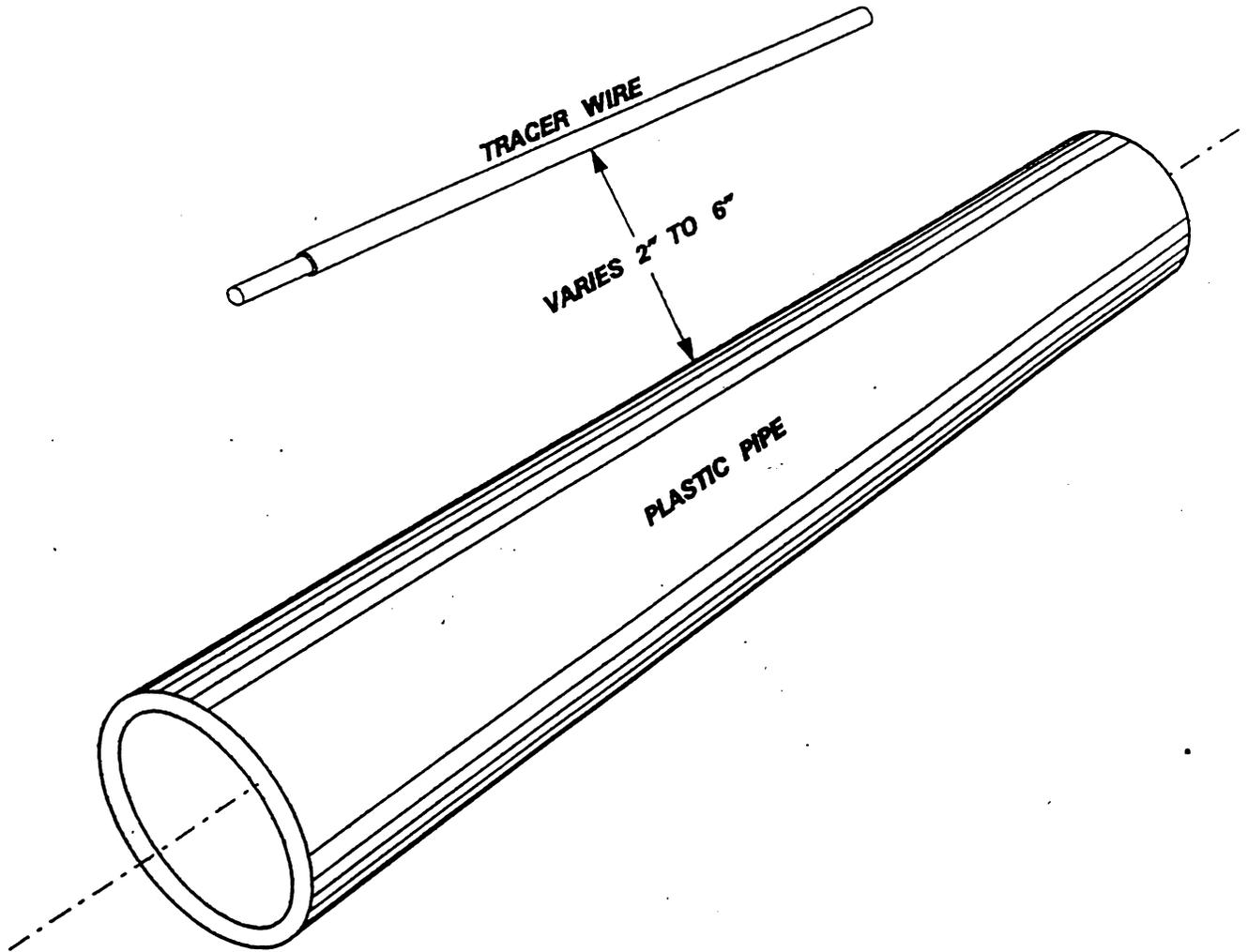
POSI-HOLD COUPLING INSTALLATION



	DATE	APPROVED	CITY PUBLIC SERVICE BOARD CONSTRUCTION DRAWING ( GAS )	DRAWING DS-24
ISSUED	5/80	<i>BAR</i>		G-S-507-8-0
REVISED				

4.5

PLASTIC PIPE & TRACER WIRE



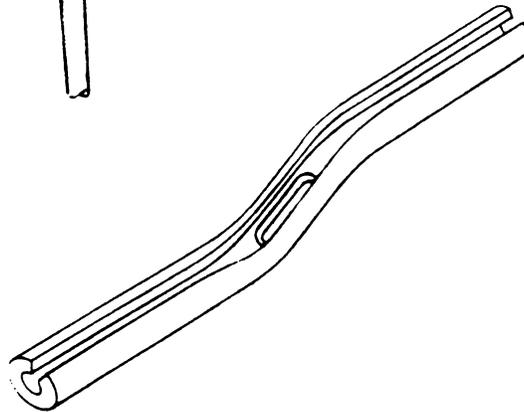
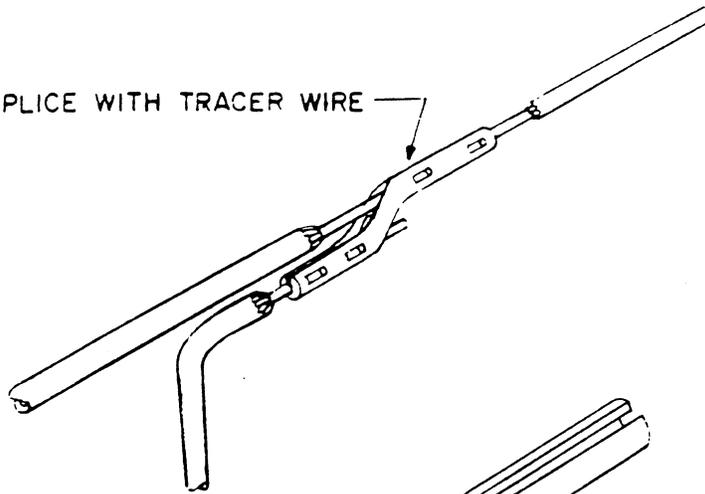
**NOTE: THERE IS TO BE 2" TO 6" OF SEPARATION BETWEEN PIPE AND TRACER WIRE.**

	DATE	APPROVED	CITY PUBLIC SERVICE CONSTRUCTION STANDARD	G-S-501-2-1
ISSUED	6-6-80	D.R.S.		
REVISED				DATE: 18-Dec-82 12:47

4.5

TEE SPLICE

TEE SPLICE WITH TRACER WIRE



TEE SPLICE

NOTE:

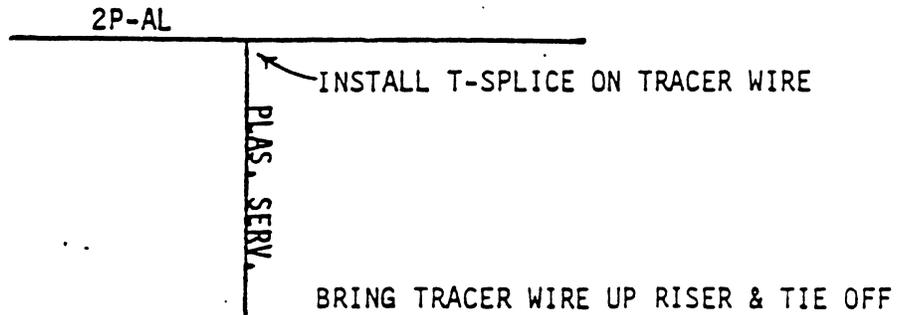
1. APPLY PIPELINE TAPE WRAP PRIMER ( ALLOW TO DRY UNTIL TACKY )
2. USE PIPELINE TAPE WRAP ONLY ( CIGARETTE WRAP )

	DATE	APPROVED	CITY PUBLIC SERVICE BOARD CONSTRUCTION DRAWING (GAS)	DRAWING DS-27
ISSUED	6/25/00	A.R.S.		G-S-541-1-0
REVISED				

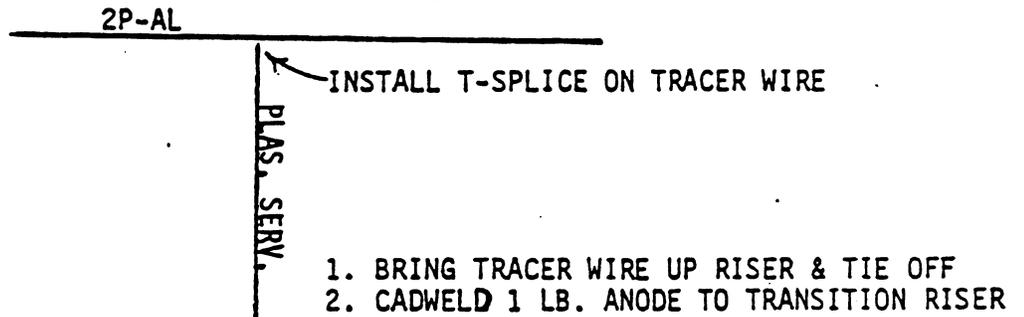
DRAWING DS-28  
 EXAMPLES FOR ANODELESS RISERS  
 (Page 1 of 2)

4/1/03

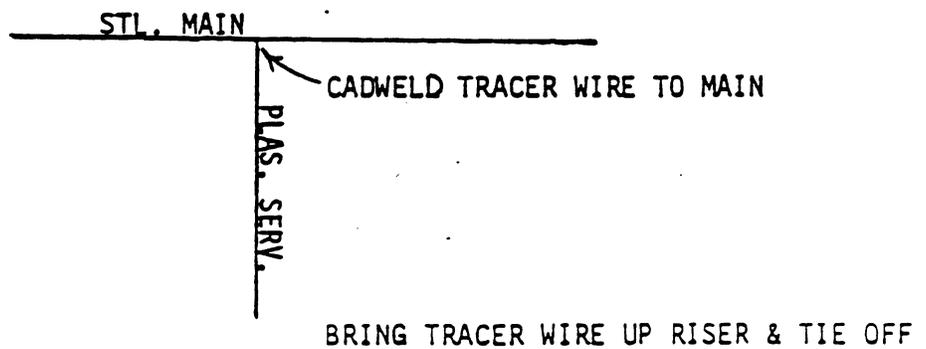
- ① ANODELESS TRACER WIRE ON PLASTIC MAIN - PLASTIC SERVICE WITH ANODELESS RISER



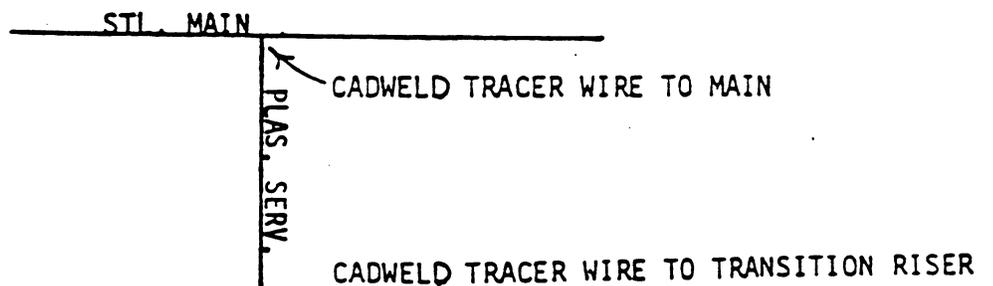
- ② ANODELESS TRACER WIRE ON PLASTIC MAIN - PLASTIC SERVICE WITH STEEL TRANSITION RISER



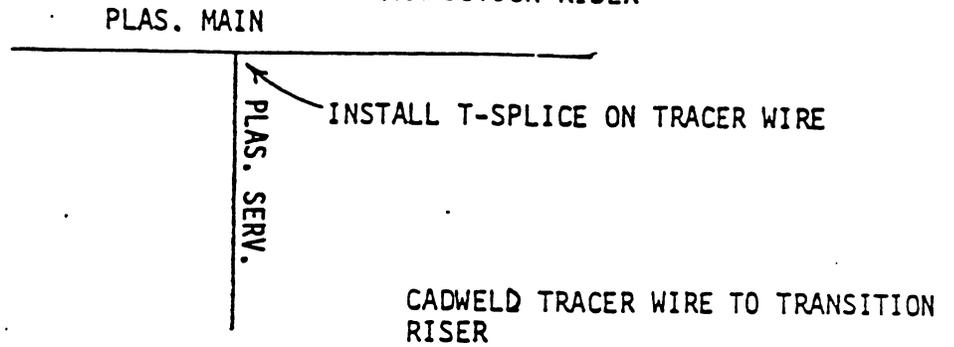
- ③ STEEL MAIN - PLASTIC SERVICE WITH ANODELESS RISER - ALSO RERUNS



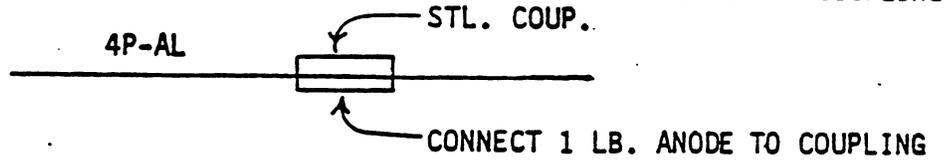
- ④ STEEL MAIN - PLASTIC SERVICE WITH STEEL TRANSITION RISER



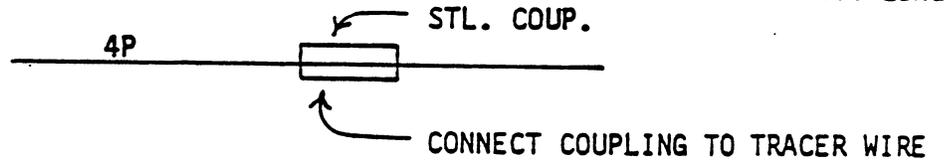
- ⑤ PROTECTED TRACER WIRE ON PLASTIC MAIN - 2" OR 4" PLASTIC SERVICE WITH STEEL TRANSITION RISER



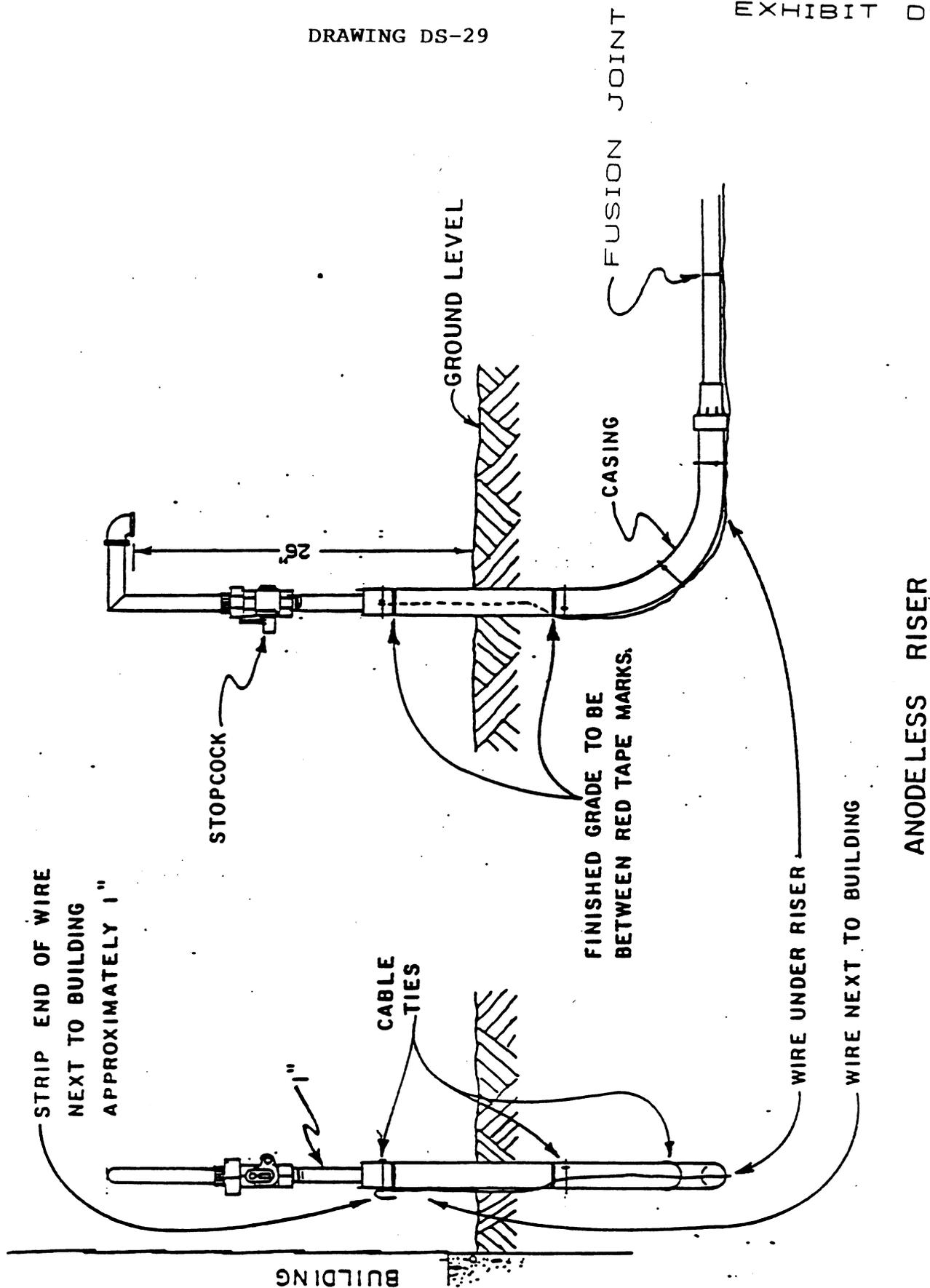
- ⑥ ANODELESS TRACER WIRE ON PLASTIC MAIN OR SERVICE WITH STEEL REPAIR COUPLING



- ⑦ PROTECTED TRACER WIRE ON PLASTIC MAIN OR SERVICE WITH STEEL REPAIR COUPLING

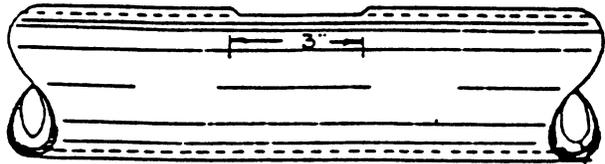


NOTE - NEVER CADWELD TRACER WIRE TO THE NEW ANODELESS SERVICE RISER



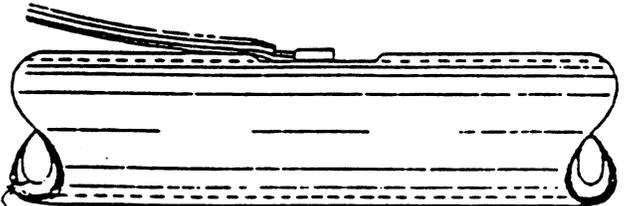


Remove a section of coating 3" long and file pipe bright so that a space 1" wide and 2" long is clean and dry.



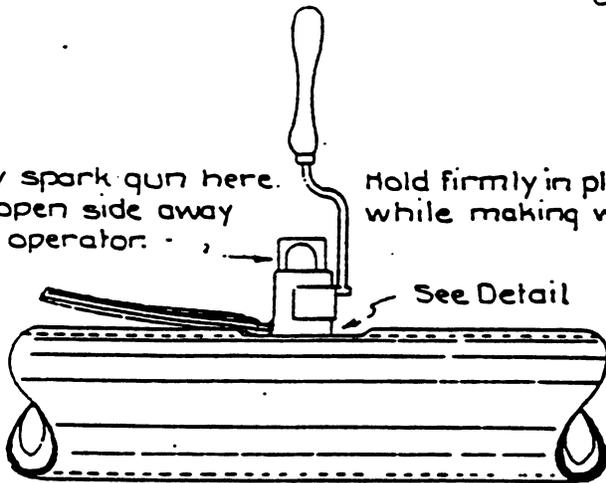
STEP 1

Strip 1/2" of insulation from wire and place copper sleeve on #10 and smaller wire.



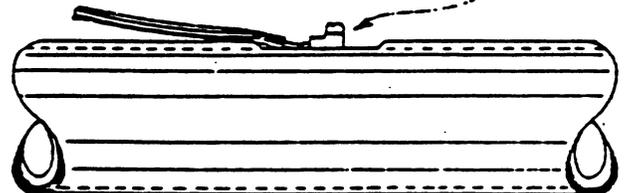
STEP 2

Apply spark gun here. Keep open side away from operator. Hold firmly in place while making weld.



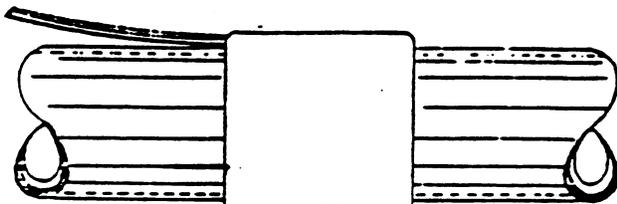
STEP 3

Remove slag with hammer and paint thoroughly with primer.

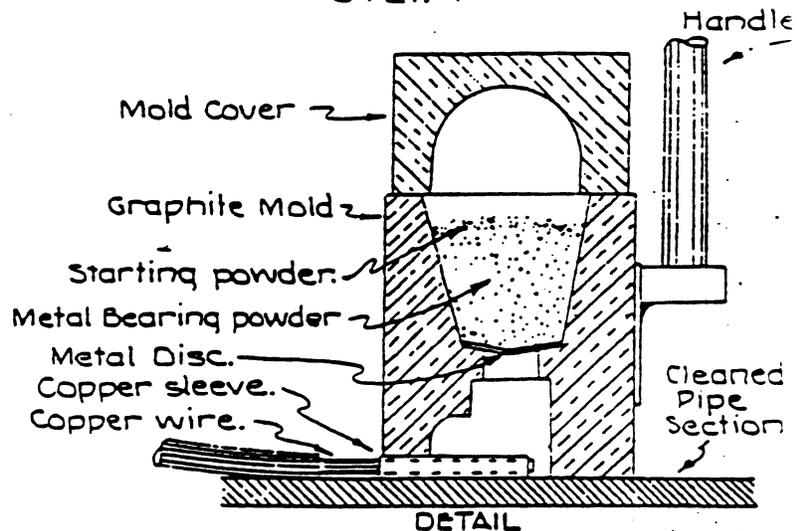


STEP 4

Repair pipe coating with care. Cover entire weld.



STEP 5



DETAIL

**IMPORTANT**

1. REMOVE RED CAP OF CADWELD CARTRIDGE AND DUMP ALL OF CONTENTS INTO MOLD. THE CHARGE WILL NOT IGNITE WITHOUT THE FINE STARTING POWDER ON TOP.
2. THE CARTRIDGES MUST BE KEPT DRY AT ALL TIMES.

Cadweld mold with sleeve for #10 wire and smaller.

CITY PUBLIC SERVICE BOARD  
SAN ANTONIO TEXAS  
GAS DEPARTMENT

COPPER WIRE CONNECTION TO PIPE USING CADWELD.

INSTRUCTION SHEET - TYPE TB-3 WELDER**PREPARATION OF SURFACE:**

To obtain a good weld, surface must be bright clean and dry.

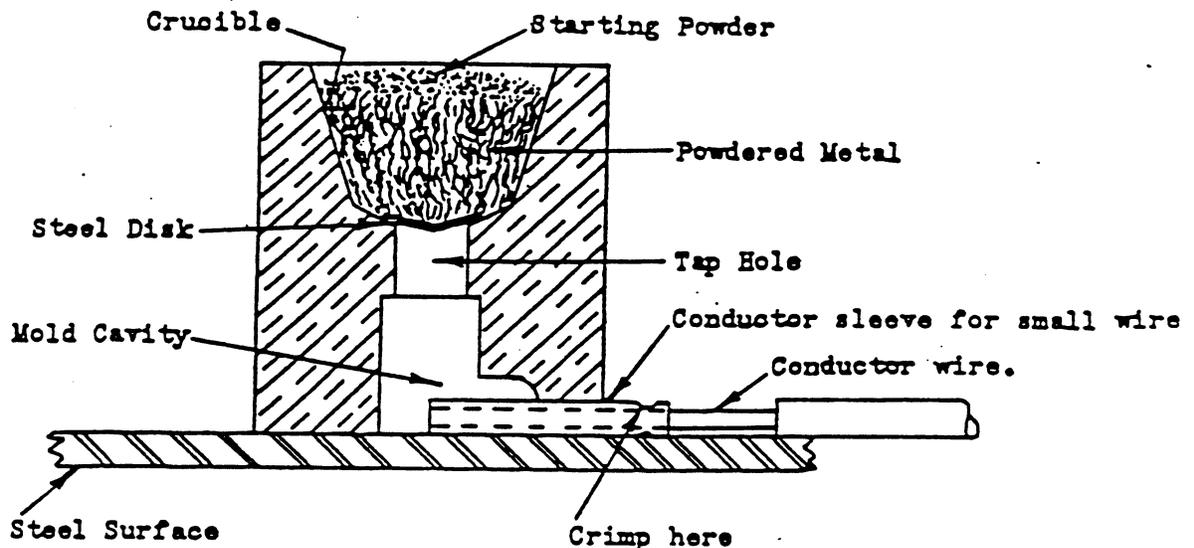
Steel surface should be ground or filed to remove all scale, rust, grease and dirt.

Galvanized steel must be cleaned with emery cloth to remove oxide.

**PREPARATION OF WIRE:**

Strip the insulation from the conductor and scrape until wire is bright and clean.

For #10 and smaller sizes, place the wire in a copper sleeve, ends flush, and crimp the sleeve tightly to the wire at the insulation to provide additional mechanical strength at the weld.

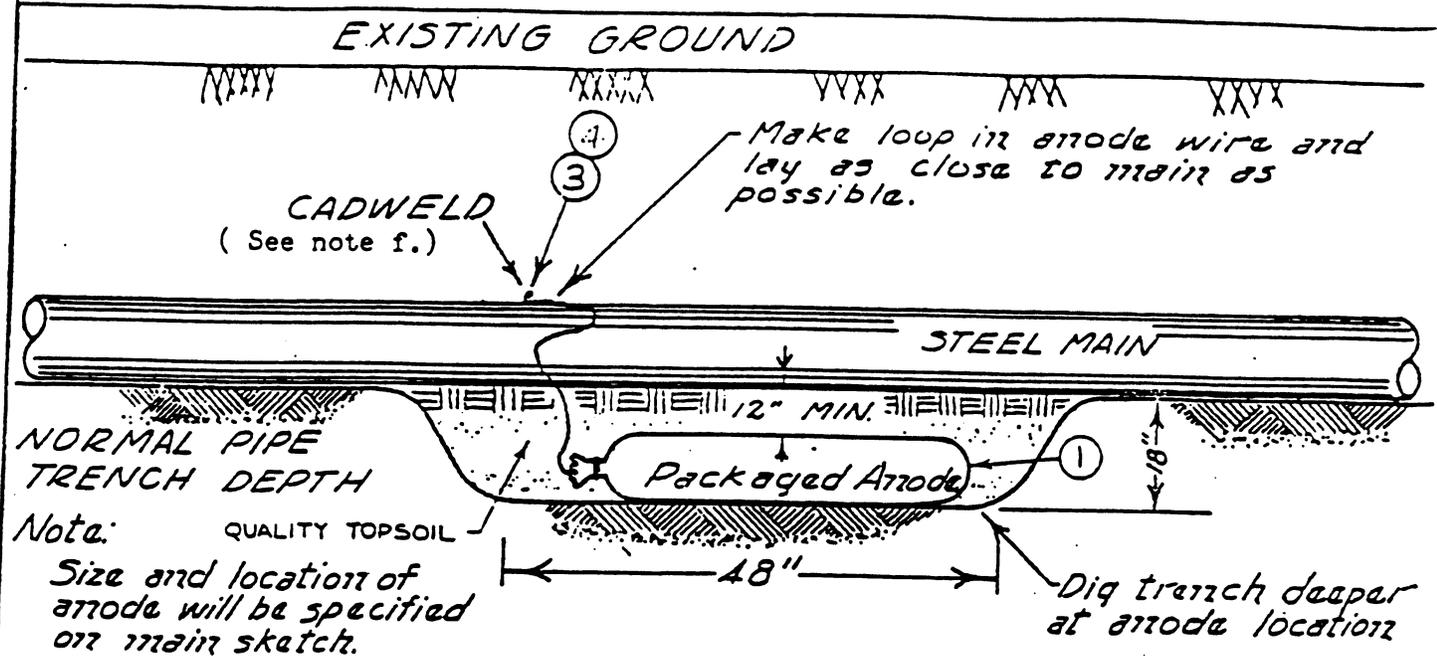
**WELDING PROCEDURE:**

- (1) PLACE WELDER OVER CLEAN STEEL SURFACE and insert the wire until it is under the CENTER of the tap hole.
- (2) COVER TAP HOLE WITH STEEL DISK.
- (3) DUMP CARTRIDGE IN CRUCIBLE AND CLOSE COVER. (Tap bottom of cartridge to be sure starting powder is emptied). Replace empty cartridge in box to keep remaining cartridges in an upright position.
- (4) HOLD DOWN ON WELDER TO PREVENT LEAKS AND IGNITE WITH FLINT GUN. Jerk gun away to prevent fouling. Should gun become fouled, soak in Spirits of Ammonia.
- (5) DO NOT REMOVE WELDER UNTIL METAL HAS SOLIDIFIED.
- (6) ALL SLAG MUST BE CLEANED FROM MOLD BEFORE MAKING NEXT WELD.

Note: Wet or damp molds produce porous welds. Mold can be dried out by firing a charge before making the desired weld.

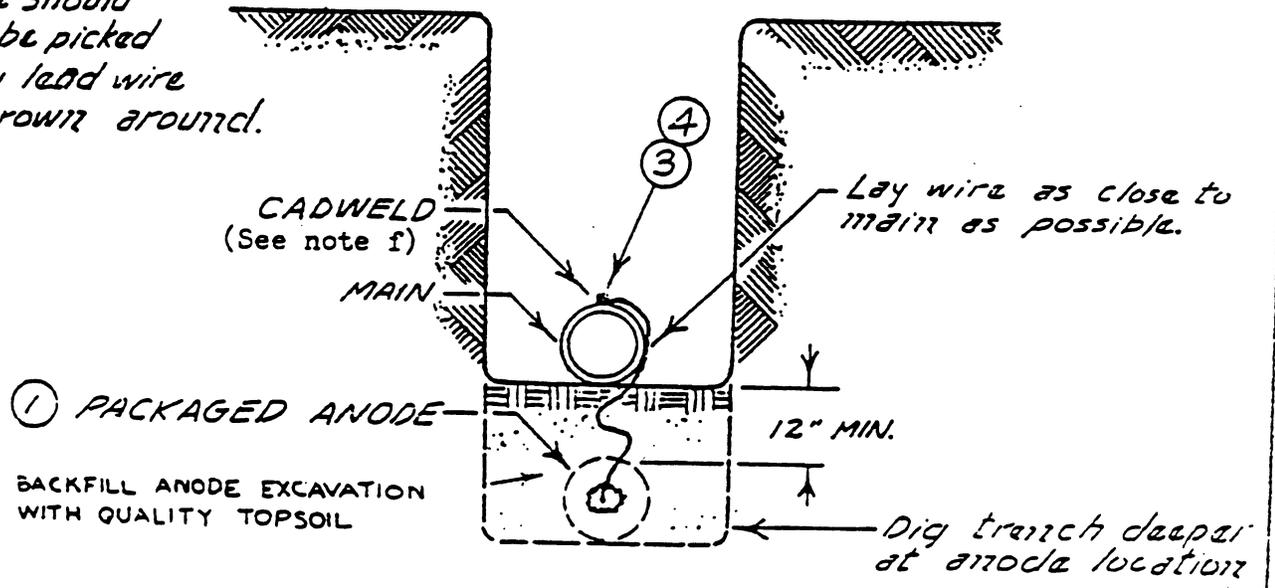
4.5

PACKAGED ANODES



**Note:** Size and location of anode will be specified on main sketch.

Anode should never be picked up by lead wire or thrown around.



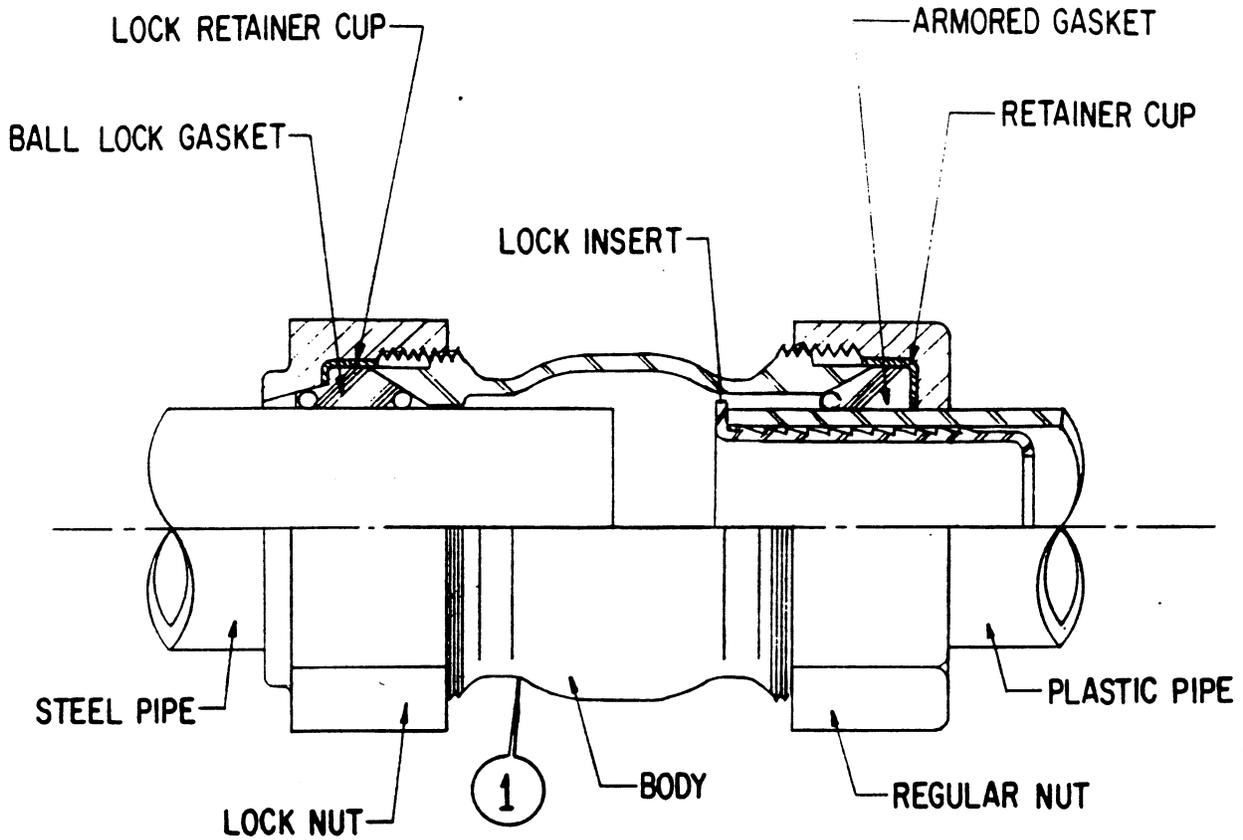
**NOTES:**

- a. Cadweld connection to be primed and coated carefully.
- b. Packaged anode should be covered with fine soil containing no rocks, clods, or sand.
- c. Pour 5 gallons of water over anode location and camp thoroughly.
- d. Provide test leads when specified. (See test lead standard)
- e. Anode specification sheet will be attached to main order, and is to be completed by the main construction foreman..
- f. Where plastic main is installed in place of steel, use tee splice to connect anode wire to tracer wire.

ISSUED	DATE	APPROVED	CITY PUBLIC SERVICE BOARD CONSTRUCTION STANDARD (GAS)	DRAWING DS-33
REVISED	12-14-77	J. J. L.		G-S-171-1-2

4.5

PLASTI-LOK TRANSITION COUPLING INSTALLED



STEEL TO PLASTIC

AVAILABLE SIZES: 1", 1 1/4", 2"

	DATE	APPROVED	CITY PUBLIC SERVICE BOARD CONSTRUCTION DRAWING ( GAS )	DRAWING DS-34
ISSUED	9/81	GRB		G-S-507-4-Ø
REVISED				

**CPS ENERGY (CPS)  
EXHIBIT GAS-5  
COMPENSATION SCHEDULE  
CONSTRUCTION OF NATURAL GAS DISTRIBUTION FACILITIES**

PROJECT NAME: Creighton Avenue Roadway Reconstruction

JOB #: 1626540

NOTE A: For each of the items below, the Contractor's work is to include: trenching, joining, testing, coating steel, building and painting risers and meter set-ups, connecting new pipe to existing pipe and installing all necessary fittings for tie-ins such as, stopper fittings and 3-way stopper tees, valves, insulating joints, Installing all necessary cathodic protection devices such as CPTLB's and anodes, sand padding, backfilling and compacting to consistency of original soil, replacing paving, curbs, and sidewalks removed or damaged during construction, and cleanup as may be necessary in each instance.

NOTE B: Trenching is considered to be the normal method of service installation and is required on all service adjustments. A gas service can be rerun by INSERTION, when the old service is PULLED from the riser to one foot inside the property line, ONLY at the discretion of the CPS Energy Inspector.

NOTE C: Bid quantities shown are estimates by CPS Energy. Per foot prices shall be applied to the actual distance measured along the top of the trench or the actual length of the bore, as applicable.

NOTE D: Unit prices shall include insurance costs. CPS Energy's insurance requirements are specified in Exhibit GAS-6.

NOTE E: The COST to abandon the existing main(s) is not an ADDITIONAL item and is to be included in the Unit Price(s) for this Item.

SAP NO.	ITEM NO.	DESCRIPTION	UNIT	UNIT PRICE	BID QUANTITY	TOTAL PRICE
	1.	Install Gas Main or Casing (Distance As Measured Along the Top of Trench)				
		2" Plastic Pipe and Tracer Wire	1 ft.	\$ _____	X 572'	= \$ _____.
		4" Plastic Pipe and Tracer Wire	1 ft.	\$ _____	X 57'	= \$ _____.
		6" Plastic Pipe and Tracer Wire	1 ft.	\$ _____	X 72'	= \$ _____.
		4" Steel Pipe	1 ft.	\$ _____	X 15'	= \$ _____.
		16" Steel Pipe	1 ft.	\$ _____	X 1,675'	= \$ _____.
	2.	Rerun and Lower Gas Service off New Main (Main to Meter) Sizes 1" through 4"				
		Short Side	1 ea.	\$ _____	X 2	= \$ _____.
	3.	Rerun and Lower Gas Service off New Main (Main to 1 ft. inside Prop. Line) Sizes 1" through 4"				
		Long Side	1 ea.	\$ _____	X 1	= \$ _____.

**CPS ENERGY (CPS)  
EXHIBIT GAS-5  
COMPENSATION SCHEDULE  
CONSTRUCTION OF NATURAL GAS DISTRIBUTION FACILITIES**

4. Cut back, pump test, and tie over existing plastic service to new plastic main. 1 ea. \$ \_\_\_\_\_ X 2 = \$ \_\_\_\_\_.

5. Uncover and abandon active gas mains only when main is not being replaced. (Includes installation of stoppler fitting(s) on steel mains, purge and plug ends  
  
12" Steel 1 ea. \$ \_\_\_\_\_ X 1 = \$ \_\_\_\_\_.

6. Civic Street Restoration Adjustment, when required. To be used as directed by the CPS Representative

Flowable Fill 1 Cu. Yd. \$ \_\_\_\_\_ X 172 = \$ \_\_\_\_\_.

Asphalt 1 Sq. Yd. \$ \_\_\_\_\_ X 514 = \$ \_\_\_\_\_.

Concrete/Flatwork 1 Sq. Ft. \$ \_\_\_\_\_ X 4 = \$ \_\_\_\_\_.

TOTAL COST: \$ \_\_\_\_\_

COMPANY: \_\_\_\_\_

PREPARED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

# Civic Improvement Project

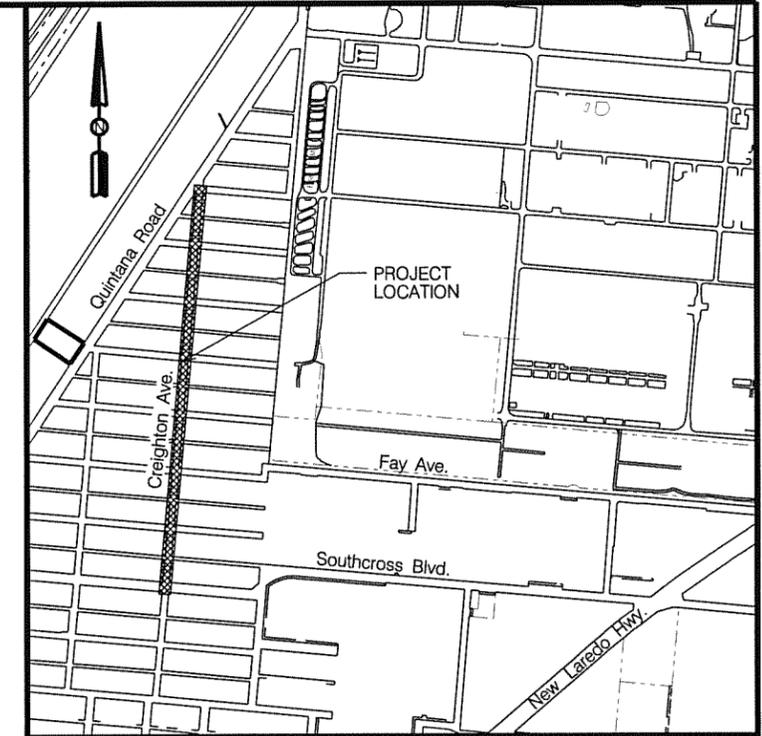
## Contract Exhibit GAS-6

⊕ = Bench Marks

CP 20 CP-20 NAIL N: 13681884.193 E: 2110337.311 Elev: 662.30	CP 21 CP-21 IRON PIN W/FFW CAP N: 13682286.247 E: 2110424.273 Elev: 663.60	CP 22 CP-22 PK NAIL N: 13682638.789 E: 2110458.029 Elev: 664.09	CP 23 CP-23 PK NAIL N: 13682983.866 E: 2110460.590 Elev: 665.62
CP 24 CP-24 PK NAIL N: 13683320.830 E: 2110526.031 Elev: 666.30	CP 25 CP-25 PK NAIL N: 13683661.323 E: 2110530.976 Elev: 667.61	CP 26 CP-26 PK NAIL N: 13683993.058 E: 2110597.551 Elev: 668.49	CP 27 CP-27 IRON PIN W/FFW CAP N: 13684351.801 E: 2110635.222 Elev: 669.23

### Legend

Center Line	---
Existing Property Line	---
Proposed Property Line	---
Easement Line	---
Existing Gas Service	---
Existing Gas Main	---
Install Gas Service	---
Install Gas Main	---
Abandon Gas	---
Cable TV	---
Telephone	---
Sanitary Sewer	---
Proposed Drainage	---
Existing Drainage	---
Electric	---
Water	---
Existing Fence	---



Location Map  
NTS

- ### General Notes
- All proposed gas mains are to be installed at 5'-0" of cover, unless otherwise indicated on the Location Data Table or as directed by the CPS Inspector or Field Representative. All proposed gas mains and services are to be installed at the elevations indicated on the Location Data Table.
  - All services labeled with a "R" are to be rerun from main to meter and services labeled with a "R1" are to be rerun from main to 1' inside the property line. From main to 1' inside the property line, the services are to be installed at the elevation indicated on the Location Data Table. For services labeled with a "T", the existing service is to be tied over to the new main and services labeled with an "A" are to be abandoned.
  - Gas main is to be abandoned in sections no longer than 300 feet. Each section is to be purged of gas with compressed air, then the ends are to be sealed with concrete. All abandoned services are to be plugged. All valve boxes on abandoned mains are to be removed.
  - Contractor is to install gas mains in accordance with the specified construction phases. If the General Contractor requires temporary tie-ins that are not shown on the CPS Energy sketch due to project phasing or to accommodate this project in any way, this work will be done at the General Contractor's expense. General Contractor will also be responsible for all costs associated with power pole bracing whenever bracing is required for the installation of proposed gas facilities.
  - Gas valves and underground gas facility access points should remain accessible at all times. Contractor must notify John Offer with CPS Energy at (210) 353-2012 at least 48 hours prior to construction in order to adjust existing valve covers or access points within the proposed area of construction.
  - The location of underground utilities indicated on the job sketch are taken from the best records available and are not guaranteed to be accurate. Foreman shall verify location and depth of all existing utilities, whether shown on the plans or not, and shall be responsible for the protection of existing utilities during construction.
  - 48 hours before excavating, notify One - Call at 1-800-545-6005. This number should notify all utilities of locates. For Emergency gas locates only - call 353-HELP.
  - All gas facilities will require proper connection for cathodic protection and locating purposes as indicated by CPS. Call Corrosion Control at 353-3237 prior to installing, adjusting, or abandoning gas lines and before connecting or disconnecting wires to any CPTLB.
  - All new polyethylene gas services and mains are to be joined by butt fusion. Compression couplings must not be used on new gas line construction.
  - TRENCH EXCAVATION PROTECTION:** Contractor and/or Contractor's independently retained employee or structural design/geotechnical/safety/equipment consultant, if any, shall review these plans and any available geotechnical information and the anticipated installation site(s) in order to develop the Contractor's plans to implement the project described in the Contract Documents. The Contractor's plans shall provide for adequate trench safety systems that comply with, as a minimum, OSHA standards for trench safety consultant shall develop and implement a trench safety program in accordance with OSHA standards governing the presence and activities of individuals working in and around trench excavation.

Note To Foreman:

Existing 16-SP can be temporarily shut down for tie-in operations only when ambient temperature is above 65 degrees Fahrenheit

Note To Foreman:

Normal operating pressure of any existing supply pressure gas main must be adjusted prior to tie-in operations. Contact Thomas Linerode (CPS Energy) at (210) 353-3431 at least two weeks prior to tie-in operations on supply pressure mains in order to coordinate the necessary adjustments.

Construction Points		Install		Abandon	
From	To	Pipe Size	Length	Pipe Size	Length
1	2			12-SP	855'
3	4	16-SP	1,675'	16-SP	1,649'
5	6	4-SP	15'		
7	8	4P	57'	4	45'
9	10	2P	49'	2	43'
11	12	2P	97'	4	83'
				2	24'
13	14	2P	52'	2	45'
15	16	2P	99'	2	13'
				4	89'
17	18	2P	65'	4	61'
19	20	2P	104'	2	138'
21	22	6P	72'	8	53'
				2	5'
23	24	2P	55'	2	47'
25	26	2P	51'	2	46'
				Total 2	361'
		Total 2P	572'	Total 4	278'
		Total 4P	57'	Total 8	53'
		Total 6P	72'	Total 4-SP	8'
		Total 4-SP	15'	Total 12-SP	855'
		Total 16-SP	1,675'	Total 16-SP	1,649'

Pressure Test Department of Transportation Section 192.507 Proposed M.A.O.P. 90 P.S.I.G			
Pipe Size: 16" STL SP Test Medium: Nitrogen /Air/Water Minimum Test Pressure: 135 P.S.I.G. Minimum Test Duration: 1 Hour C.P.S. Required Duration: 2 Hours Tested By: _____ Date Tested: _____			
			Steel Material Specifications  Pipe: 16" O.D. x 0.250" W.T., X-42  Coating: Fusion Bond Epoxy (F.B.E.)  Fittings: 16" O.D. x STD W.T., X-42
Start Test 15 minutes 30 minutes 45 minutes 60 minutes 75 minutes 90 minutes 105 minutes End Test	Pressure _____ _____ _____ _____ _____ _____ _____	Ambient Temperature _____ _____ _____ _____ _____ _____ _____	Pipe Temperature _____ _____ _____ _____ _____ _____ _____

Pressure Test Minimum Test 90 PSIG Tested To _____ PSIG By _____ Date _____	Construction Contractor _____ Center _____ By _____ Start Date _____ Comp. Date _____	No. 0 Drawing Revision Planning Completed Date 6-15-12	Checked By: <i>[Signature]</i> Date Approved: 6-15-12	Designed By: Anthony J. Moy Ext. 2648 Date Approved: <i>[Signature]</i> 6-15-12	Map Quadrant 2110372 - 13681949 Project No. G-0272 141-558	Job Title Creighton Ave. - Southcross to Quintana Job No. 1626540	Approved By: <i>[Signature]</i> 6-15-12 Date Approved: 6-15-12	CPS ENERGY P.O. BOX 1771 SAN ANTONIO, TX 78296
-----------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------	--------------------------------------------------------------	----------------------------------------------------------	---------------------------------------------------------------------------------------	------------------------------------------------------------------	----------------------------------------------------------------------	-------------------------------------------------------------------	------------------------------------------------------



All proposed gas mains and services are to be installed at the planned Gas Top of Pipe Elevation indicated on the Location Data Table.

Contract Exhibit GAS-6

Location Data Table - Page 5 of 9

CS4 Item #	Location			Grade Elevations			Gas Requirements		Planned Depth of Gas			Potential Conflicting Facility			Clearance	
	Address	Location # / Street Name	Station Marker	Existing Grade	Proposed Final Grade	Estimated Subgrade	Gas Pipe Size	Planned Gas T.O.P. Elevation	From Existing Grade	From Final Grade	From Estimated Subgrade	Proposed Facility Description	Top Elevation	Bottom Elevation	Above Prop. Facility	Below Prop. Facility
		27	3+15	663.0	662.7	661.1	4" P	655.9	7.1	6.8	5.2	8" Water	658.7	657.9		2.0
		28	3+15	662.7	662.5	660.9	4" P	657.5	5.2	5.0	3.4	10" S.S.	655.0	654.0	2.1	

Location Data Table - Page 6 of 9

CS4 Item #	Location			Grade Elevations			Gas Requirements		Planned Depth of Gas			Potential Conflicting Facility			Clearance	
	Address	Location # / Street Name	Station Marker	Existing Grade	Proposed Final Grade	Estimated Subgrade	Gas Pipe Size	Planned Gas T.O.P. Elevation	From Existing Grade	From Final Grade	From Estimated Subgrade	Proposed Facility Description	Top Elevation	Bottom Elevation	Above Prop. Facility	Below Prop. Facility
		29	6+56	664.0	664.4	662.8	2" P	657.6	6.4	6.8	5.2	8" Water	660.4	659.6		2.0
		30	6+65	664.0	663.8	662.2	2" P	659.0	5.0	4.8	3.2	8" S.S.	657.6	656.6	1.4	
		31	6+74	664.6	664.1	662.5	2" P	657.1	7.5	7.0	5.4	8" Water	660.1	659.1		2.0
		32	6+74	664.1	663.9	662.3	2" P	659.1	5.0	4.8	3.2	10" S.S.	656.3	655.3	2.6	
		33	10+13	665.4	664.1	663.0	16 S	655.8	9.6	8.3	7.2	8" Water	659.6	659.3		3.5
		34	10+26	665.3	664.2	662.6	16 S	655.8	9.5	8.4	6.8	8" S.S.	658.6	657.8		2.0
		35	10+32	665.4	664.4	662.8	2" P	657.4	8.0	7.0	5.4	8" Water	660.4	659.4		2.0
		36	10+32	665.4	664.2	662.6	2" P	660.4	5.0	3.8	2.2	10" S.S.	657.5	656.5	2.7	
6	143	Hollenbeck	5+83	663.9	663.4	661.8	1-1/4 P	659.4	4.5	4.0	2.4	Sidewalk	663.4	662.9		3.5
3	203	Hollenbeck	5+86	664.1	663.9	662.3	1/2 P	659.0	5.1	4.9	3.3	10" S.S.	655.9	654.9	2.9	
3	203	Hollenbeck	5+86	664.0	663.7	662.1	1/2 P	656.9	7.1	6.8	5.2	8" Water	659.7	658.9		2.0

Location Data Table - Page 7 of 9

CS4 Item #	Location			Grade Elevations			Gas Requirements		Planned Depth of Gas			Potential Conflicting Facility			Clearance	
	Address	Location # / Street Name	Station Marker	Existing Grade	Proposed Final Grade	Estimated Subgrade	Gas Pipe Size	Planned Gas T.O.P. Elevation	From Existing Grade	From Final Grade	From Estimated Subgrade	Proposed Facility Description	Top Elevation	Bottom Elevation	Above Prop. Facility	Below Prop. Facility
		37	11+92	665.7	665.0	663.4	16 S	658.2	7.5	6.8	5.2	8" Water	661.0	660.2		2.0
		38	13+55	666.0	665.5	663.9	16 S	658.7	7.3	6.8	5.2	8" Water	661.5	660.7		2.0
		39	13+65	665.9	666.1	664.5	16 S	656.4	9.5	9.7	8.1	8" S.S.	659.2	658.4		2.0
		40	13+70	666.1	665.8	664.2	2" P	658.8	7.3	7.0	5.4	8" Water	661.8	660.8		2.0
		41	13+70	666.0	665.5	663.9	2" P	661.0	5.0	4.5	2.9	10" S.S.	658.8	657.8	2.0	
		42	15+31	666.6	666.4	664.8	16 S	659.6	7.0	6.8	5.2	8" Water	662.4	661.6		2.0
4	302	Baker	11+28	665.0	664.6	663.0	1-1/4 P	660.5	4.5	4.1	2.5	Sidewalk	664.6	664.1		3.6
4	202	Tampa	14+71	666.0	665.8	664.2	1-1/4 P	661.5	4.5	4.3	2.7	Sidewalk	665.8	665.3		3.8

NOTE: Clearance of proposed facilities represents the distance (feet) between the outside diameter of the gas line and the outside edge of the proposed buried utility. All dimensions are in feet.



No.	Drawing Revision	Date	Checked By:	Date Approved:	Designed By:	Ext. 2648	Job Title	Job No.
0	Planning Completed	6-15-12	<i>[Signature]</i>	6-25-12	Anthony J. Moy		Creighton Ave. - Southcross to Quintana	1626540
			Approved By:	Date Approved:	Map Quadrant	Project No.	CPS ENERGY	
			<i>[Signature]</i>	6-25-12	2110372 - 13681949 141-558	G-0272	P.O. BOX 1771 SAN ANTONIO, TX 78296	

All proposed gas mains and services are to be installed at the planned Gas Top of Pipe Elevation indicated on the Location Data Table.

Contract Exhibit GAS-6

Location Data Table - Page 8 of 9

CS4 Item #	Location			Grade Elevations			Gas Requirements		Planned Depth of Gas			Potential Conflicting Facility			Clearance	
	Address	Location # / Street Name	Station Marker	Existing Grade	Proposed Final Grade	Estimated Subgrade	Gas Pipe Size	Planned Gas T.O.P. Elevation	From Existing Grade	From Final Grade	From Estimated Subgrade	Proposed Facility Description	Top Elevation	Bottom Elevation	Above Prop. Facility	Below Prop. Facility
		43	16+98	667.4	667.3	665.7	6" P	660.3	7.1	7.0	5.4	8" Water	663.3	662.3		2.0
		44	16+98	667.0	667.0	665.4	6" P	662.0	5.0	5.0	3.4	10" S.S.	659.7	658.7	1.7	
		45	17+03	667.4	667.1	665.5	16 S	657.6	9.8	9.5	7.9	8" S.S.	660.4	659.6		2.0
		46	17+18	667.5	667.3	665.7	16 S	657.6	9.9	9.7	8.1	8" Water	663.3	662.5		4.9
		47	18+74	667.5	667.5	665.9	16 S	660.7	6.8	6.8	5.2	8" Water	663.5	662.7		2.0
		48	20+32	668.1	668.0	666.4	16 S	658.7	9.4	9.3	7.7	8" Water	664.0	663.2		4.5
		49	20+44	668.1	668.0	666.4	16 S	658.6	9.5	9.4	7.8	8" S.S.	661.4	660.6		2.0
		50	20+53	668.1	668.1	666.5	2" P	661.1	7.0	7.0	5.4	8" Water	664.1	663.1		2.0
		51	20+53	667.8	667.7	666.1	2" P	663.2	4.6	4.5	2.9	10" S.S.	661.0	660.0	2.0	
6	202	Palestine	20+53	668.0	667.8	666.2	1/2 P	663.5	4.5	4.3	2.7	Street	667.8	666.2		2.7

Location Data Table - Page 9 of 9

CS4 Item #	Location			Grade Elevations			Gas Requirements		Planned Depth of Gas			Potential Conflicting Facility			Clearance	
	Address	Location # / Street Name	Station Marker	Existing Grade	Proposed Final Grade	Estimated Subgrade	Gas Pipe Size	Planned Gas T.O.P. Elevation	From Existing Grade	From Final Grade	From Estimated Subgrade	Proposed Facility Description	Top Elevation	Bottom Elevation	Above Prop. Facility	Below Prop. Facility
		52	21+85	668.6	668.1	666.5	16 S	661.6	7.0	6.5	4.9	6" Water	664.4	663.6		2.0
		53	22+11	668.7	668.3	666.7	16 S	661.5	7.2	6.8	5.2	8" Water	664.3	663.5		2.0
		54	23+84	669.1	669.0	667.4	16 S	659.5	9.6	9.5	7.9	8" S.S.	662.3	661.5		2.0
		55	23+89	669.2	669.1	667.5	2" P	662.1	7.1	7.0	5.4	8" Water	665.1	664.1		2.0
		56	23+89	669.0	668.9	667.3	2" P	664.2	4.8	4.7	3.1	10" S.S.	662.0	661.0	2.0	

NOTE: Clearance of proposed facilities represents the distance (feet) between the outside diameter of the gas line and the outside edge of the proposed buried utility. All dimensions are in feet.

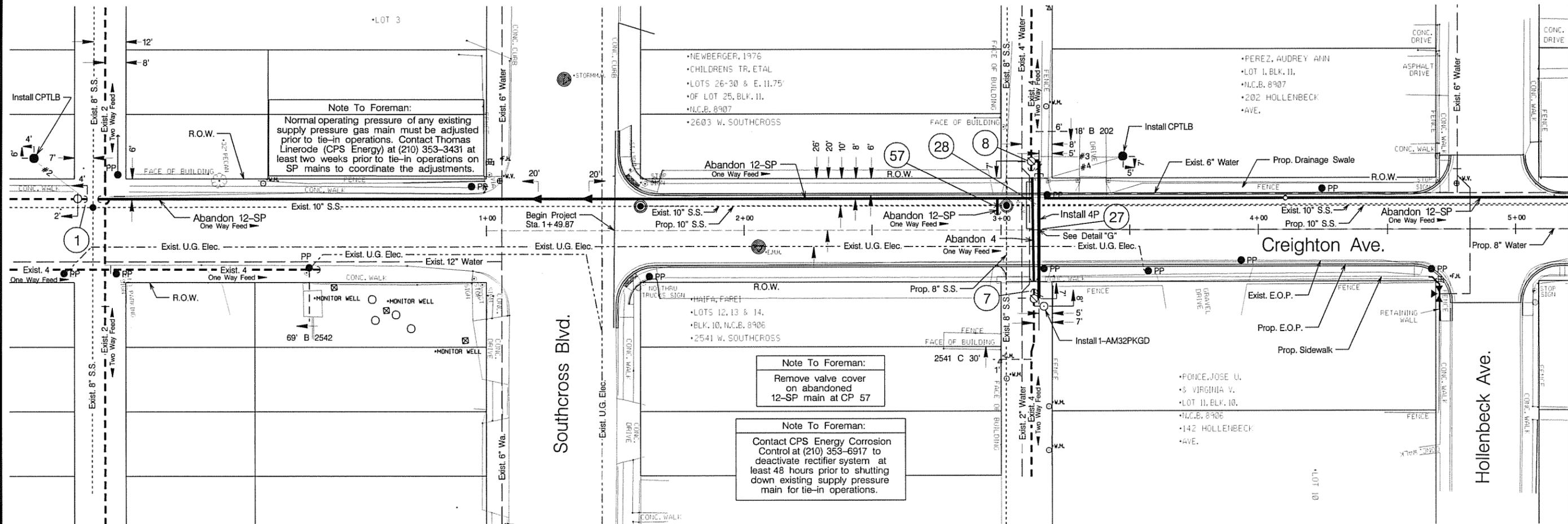


No.	Drawing Revision	Date	Checked By:	Date Approved	Designed By:	Ext. 2648	Job Title	Job No.
0	Planning Completed	6-15-12	<i>[Signature]</i>	6-25-12	Anthony J. Moy		Creighton Ave. - Southcross to Quintana	1626540
			Approved By:	Date Approved	Map Quadrant	Project No.		
			<i>[Signature]</i>	6-25-12	2110372 - 13681949 141-558	G-0272		
							CPS ENERGY P.O. BOX 1771 SAN ANTONIO, TX 78296	



All proposed gas mains and services are to be installed at the planned Gas Top of Pipe Elevation indicated on the Location Data Table.

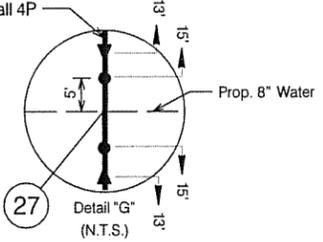
Scale:  
1" = 40'



**Note To Foreman:**  
Normal operating pressure of any existing supply pressure gas main must be adjusted prior to tie-in operations. Contact Thomas Linerode (CPS Energy) at (210) 353-3431 at least two weeks prior to tie-in operations on SP mains to coordinate the adjustments.

**Note To Foreman:**  
Remove valve cover on abandoned 12-SP main at CP 57

**Note To Foreman:**  
Contact CPS Energy Corrosion Control at (210) 353-6917 to deactivate rectifier system at least 48 hours prior to shutting down existing supply pressure main for tie-in operations.



No.	Drawing Revision	Date	Checked By:	Date Approved	Designed By:	Ext. 2648	Job Title	Job No.
0	Planning Completed	6-15-12	<i>[Signature]</i>	6-25-12	Anthony J. Moy		Creighton Ave. - Southcross to Quintana	1626540
			Approved By:	Date Approved	Map Quadrant	Project No.	CPS ENERGY	
			<i>[Signature]</i>	6-25-12	2110372 - 13681949	G-0272	P.O. BOX 1771 SAN ANTONIO, TX 78296	

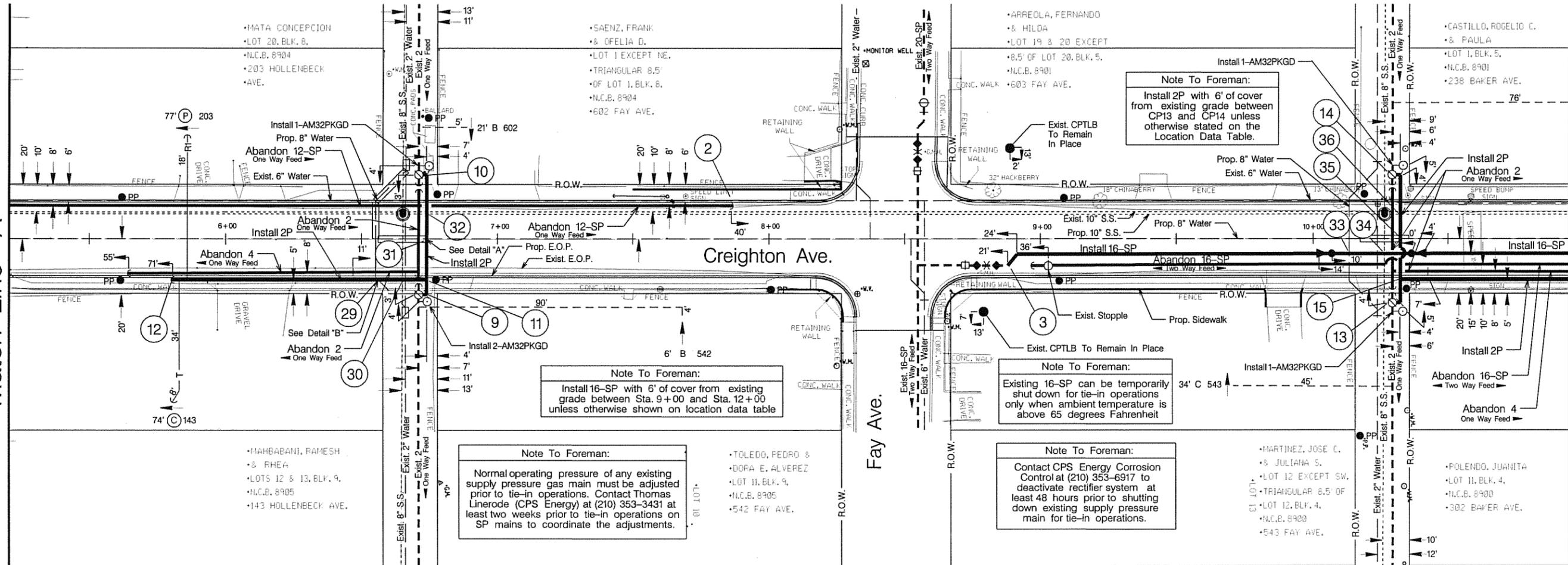
Match Line "A"  
See Page 6 of 9

All proposed gas mains and services are to be installed at the planned Gas Top of Pipe Elevation indicated on the Location Data Table.

Scale:  
1" = 40'

See Page 7 of 9  
Match Line "A"

Match Line "B"  
See Page 7 of 9



**Note To Foreman:**  
Install 16-SP with 6' of cover from existing grade between Sta. 9+00 and Sta. 12+00 unless otherwise shown on location data table

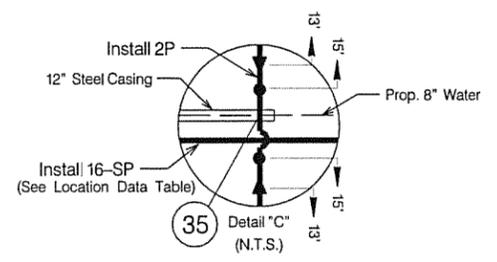
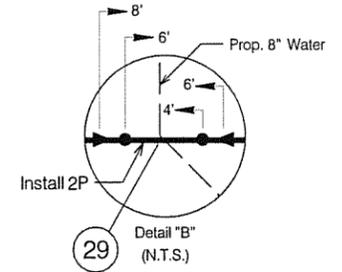
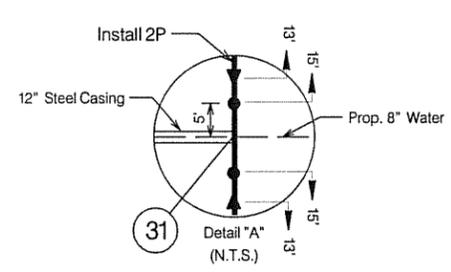
**Note To Foreman:**  
Normal operating pressure of any existing supply pressure gas main must be adjusted prior to tie-in operations. Contact Thomas Linerode (CPS Energy) at (210) 353-3431 at least two weeks prior to tie-in operations on SP mains to coordinate the adjustments.

**Note To Foreman:**  
Existing 16-SP can be temporarily shut down for tie-in operations only when ambient temperature is above 65 degrees Fahrenheit

**Note To Foreman:**  
Contact CPS Energy Corrosion Control at (210) 353-6917 to deactivate rectifier system at least 48 hours prior to shutting down existing supply pressure main for tie-in operations.

**Note To Foreman:**  
Install 2P with 6' of cover from existing grade between CP13 and CP14 unless otherwise stated on the Location Data Table.

**Note To Foreman:**  
See Detail "C" for proposed utility crossing at CP 35

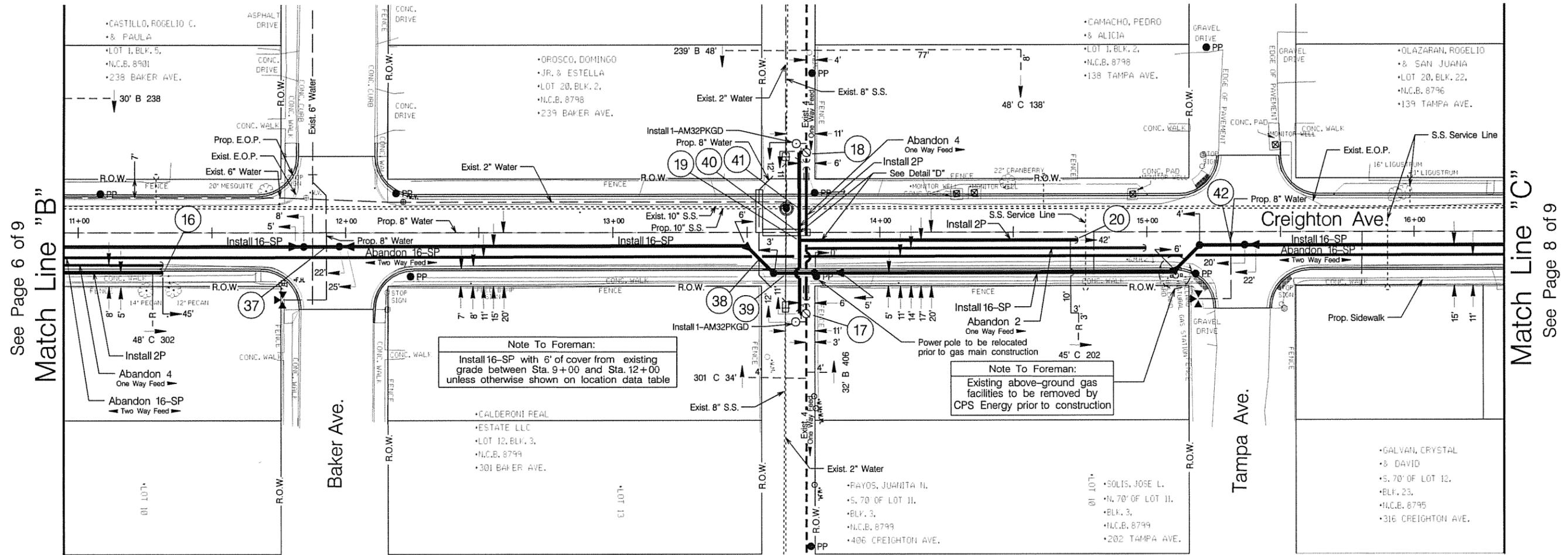


No.	Drawing Revision	Date	Checked By:	Date Approved	Designed By:	Ext.	Job Title	Job No.
0	Planning Completed	6-15-12	[Signature]	6-25-12	Anthony J. Moy	Ext. 2648	Creighton Ave. - Southcross to Quintana	1626540
			Approved By: [Signature]	Date Approved: 6-25-12	Map Quadrant: 2110372 - 13681949	Project No.: G-0272	CPS ENERGY P.O. BOX 1771 SAN ANTONIO, TX 78296	



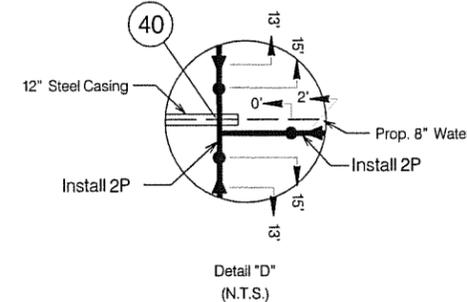
All proposed gas mains and services are to be installed at the planned Gas Top of Pipe Elevation indicated on the Location Data Table.

Scale:  
1" = 40'



See Page 6 of 9  
Match Line "B"

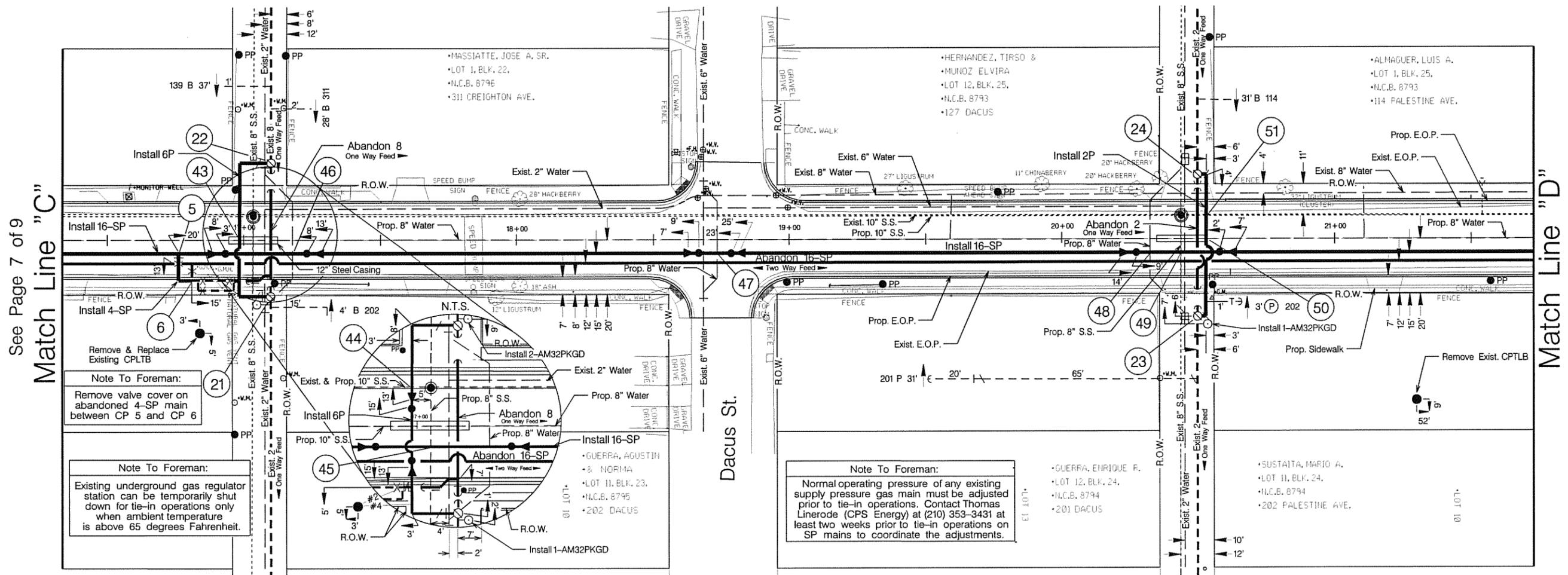
Match Line "C"  
See Page 8 of 9



No.	Drawing Revision	Date	Checked By:	Date Approved	Designed By:	Ext.	Job Title	Job No.
0	Planning Completed	6-15-12	<i>[Signature]</i>	6-25-12	Anthony J. Moy	2648	Creighton Ave. - Southcross to Quintana	1626540
			Approved By:	Date Approved	Map Quadrant	Project No.	CPS ENERGY	
			<i>[Signature]</i>	6-25-12	2110372 - 13681949	G-0272	P.O. BOX 1771 SAN ANTONIO, TX 78296	

All proposed gas mains and services are to be installed at the planned Gas Top of Pipe Elevation indicated on the Location Data Table.

Scale:  
1" = 40'

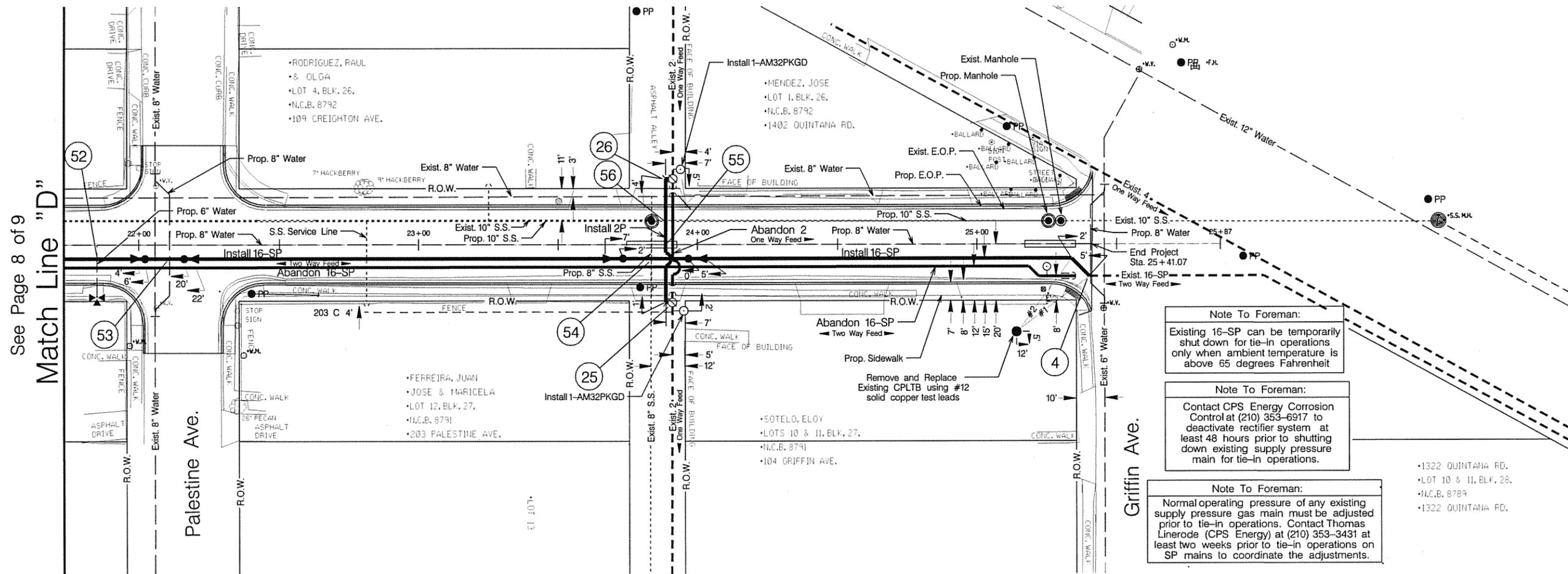


No.	Drawing Revision	Date	Checked By:	Date Approved	Designed By:	Ext.	Job Title	Job No.
0	Planning Completed	6-15-12	<i>[Signature]</i>	6-25-12	Anthony J. Moy	Ext. 2648	Creighton Ave. - Southcross to Quintana	1626540
			Approved By: <i>[Signature]</i>	Date Approved: 6-25-12	Map Quadrant: 2110372 - 13681949	Project No.: G-0272	CPS ENERGY P.O. BOX 1771 SAN ANTONIO, TX 78296	



All proposed gas mains and services are to be installed at the planned Gas Top of Pipe Elevation indicated on the Location Data Table.

Scale:  
1" = 40'



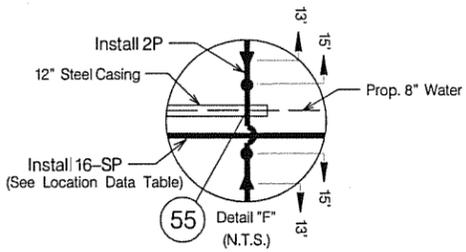
See Page 8 of 9

Match Line "D"

**Note To Foreman:**  
Existing 16-SP can be temporarily shut down for tie-in operations only when ambient temperature is above 65 degrees Fahrenheit

**Note To Foreman:**  
Contact CPS Energy Corrosion Control at (210) 353-6917 to deactivate rectifier system at least 48 hours prior to shutting down existing supply pressure main for tie-in operations.

**Note To Foreman:**  
Normal operating pressure of any existing supply pressure gas main must be adjusted prior to tie-in operations. Contact Thomas Linerode (CPS Energy) at (210) 353-3431 at least two weeks prior to tie-in operations on SP mains to coordinate the adjustments.



**Note To Foreman:**  
See Detail "F" for proposed utility crossing at CP 55



No.	Drawing Revision	Date	Checked By:	Date Approved	Designed By:	Ext.	Job Title	Job No.
0	Planning Completed	6-15-12	<i>[Signature]</i>	6-25-12	Anthony J. Moy	2648	Creighton Ave. - Southcross to Quintana	1626540
			Approved By:	Date Approved	Map Quadrant	Project No.	CPS ENERGY P.O. BOX 1771 SAN ANTONIO, TX 78296	
			<i>[Signature]</i>	6-25-12	2110372 - 13681949 142-560	G-0272		

## EXHIBIT GAS-7

### CPS Energy Covered Tasks Regulated by 49 CFR Part 192

<u>Tasks Regulated By 49 CFR Part 192</u>	<u>CFR 192</u>	<u>ReQual Interval</u>	<u>Tasks Regulated By 49 CFR Part 192</u>	<u>CFR 192</u>	<u>ReQual Interval</u>
Examining PE pipe for defects	192.59	3 year		192.287	3 year
Visually inspecting metallic components for defects	192.144	3 year		192.305	3 year
Welding	192.225	6 month		192.307	3 year
	192.225	-----		192.309 192.713	3 year
	192.241	3 year		192.311	3 year
	192.243	3 year	Installation of pipe in a ditch	192.319	3 year
	192.243	3 year	Inserting PE pipe into a casing	192.321	3 year
Repair or removal of weld defects	192.245 192.715	6 month	Installing customer meters and regulators	192.357	3 year
Making welded joints	192.273	6 month	Installation of service lines	192.361	3 year
Inspecting welded joints	192.273	3 year	Installation and maintenance of cathodic protection systems	192.453	3 year
Joining PE pipe by heat fusion or mechanical joint	192.281	1 year		192.457	-----
Qualifying PE pipe joining procedures	192.283	1 time		192.457	3 year
	192.285	-----	Inspecting pipe coating	192.459 192.461	3 year
	192.285	-----		192.465	3 year
Testing cathodic protection system with pipe-to-soil reads	192.465	3 year	Line locating and marking pipelines	192.614	3 year
Inspect interference bonds, diodes & reverse current switches	192.465	3 year		192.615	-----
Remedial actions to correct cathodic protection deficiencies	192.465	3 year		192.615	3 year
Connecting test lead wires to the pipeline <sup>1,2</sup>	192.471	-----	Making safe a pipeline emergency	192.615	3 year
Taking action to minimize the effect of stray currents	192.473	3 year		192.615	-----
	192.475	3 year		192.619 192.621	3 year
Cleaning and coating pipe for control of atmospheric corrosion	192.479	3 year		192.625	3 year
	192.479	3 year		192.625	3 year
	192.479 192.483	3 year	Tapping pipelines under pressure	192.627	3 year

### Covered Tasks (cont)

Pipeline pressure testing	192.503	3 year	Purging of pipelines	192.629	3 year
	192.605	3 year			
	192.605	-----			
<sup>2</sup>	192.605	-----	Abandoning or deactivating pipeline facilities	192.727	3 year
Starting up and shutting down any part of a pipeline	192.605	3 year			3 year
Taking precautions against hazardous atmospheres in trenches <sup>2,3</sup>	192.605	-----			3 year
Recognizing safety-related conditions that require reporting	192.605	3 year			3 year
	192.605	3 year			3 year
	192.605	3 year	Prevention of accidental ignition	192.751	3 year
	192.613	3 year			

<sup>1</sup> Not an operations or maintenance task

<sup>2</sup> Does not affect the operation or integrity of the pipeline

<sup>3</sup> Not an activity performed on the pipeline

<sup>4</sup> Not required by CFR Part 192

Any Contractor employed by CPS Energy to perform a covered task will have their employees qualified by an approved consortium or training provider. CPS Energy will require Contractor to supply a list of all qualified personnel and may require the Contractor to supply the qualified employee with a qualification card stating tasks that employee is qualified for, the qualification date, qualification method and the name of the qualifier.

CPS Energy will accept qualification of Contractor employees by any approved combination of the following methods:

- (a) approved qualification and training program (i.e. TEEX/TGA)
- (b) approved certifications (i.e. AWS Certified Welding Inspector, ASNT)
- (c) field evaluation
- (d) work performance history (See Note); and
- (e) other forms of assessment approved by CPS Energy

Contractor employee will be subject, at a minimum, to the same requalification intervals as CPS Energy employees. CPS Energy shall have the right to require removal of any employee of Contractor, or of Subcontractors, who in the CPS Energy representative's opinion, may be incompetent or unqualified to perform work.

Note: Work performance history cannot be the sole method for qualifying an employee after October 28, 2002.