

CITY OF YANKTON

SOUTH DAKOTA

PROJECT MANUAL

SPECIFICATIONS AND BID FORM

FOR

**Airport Acres  
Site Grading and Storm Sewer**

**Project # 2022-034**

CITY OF YANKTON, OWNER  
PO BOX 176  
YANKTON, SOUTH DAKOTA 57078

BID SUBMITTAL TO:  
CITY OF YANKTON  
ATTN: CITY FINANCE OFFICER  
PO BOX 176  
YANKTON, SOUTH DAKOTA 57078

BID CLOSING & OPENING:  
September 29, 2022  
3:00 P.M.

BID AWARD  
October 10, 2022  
AFTER 7:00 P.M.

CITY OF YANKTON  
PROJECT MANUAL

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FOR

**Airport Acres  
Site Grading and Storm Sewer**

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## ADVERTISEMENT FOR BIDS

Notice is hereby given that the City of Yankton, South Dakota, will receive bids for the:  
**Airport Acres - Site Grading and Storm Sewer Project**

The project includes the following major construction items:

Unclassified Excavation	12120	CuYd
Erosion Control Blanket	6490	SqYd
Topsoil Stripping	3065	CuYd
Pond Outlet Structure	1	Each
And Other Miscellaneous and Landscape Items		

Owner reserves the right to make the award based on the lowest responsive bid.

Sealed bids will be received for the City Commission of the City of Yankton, South Dakota, at the office of the City Finance Officer of said City until 3:00 PM or may be hand delivered to the place of opening at 3:00 PM on the 29<sup>th</sup> day of September, 2022, at which time they will be publicly opened and read in the Second Floor Meeting Room A, of City Hall, located at 416 Walnut Street in Yankton, South Dakota. Disposition of said bids is expected to be held on the 10<sup>th</sup> day of October, 2022, after 7:00 PM, in the Career Manufacturing Technical Education Academy at 1200 W. 21<sup>st</sup> Street, Yankton, South Dakota.

Drawings, Specifications and Contract Documents may be obtained at the City Engineer's Office, 416 Walnut Street, Yankton, SD, 57078, or by going to: <http://www.cityofyankton.org/how-do-i/bid-rfp-posts-list>. With any questions please call 605-668-5251.

The Bidder to whom the contract is awarded will be required to furnish a construction performance bond and a construction payment bond to the OWNER in the amount of one hundred percent (100%) of the contract award for each bond, in conformance with the requirements of the Contract Documents. The construction performance bond and construction payment bond shall remain in full force until the completion of the Contract as specified in the General Conditions.

Each Bid must be accompanied by a certified check, cashier's check or draft in the amount of 5% of the base bid and all add alternates and drawn on a State or National Bank or a 10% bid bond issued by a surety authorized to do business in the State of South Dakota and made payable to the City of Yankton.

The bid guarantee will be retained by the OWNER as liquidated damages if the successful bidder refuses or fails to enter into an Agreement within ten (10) days after Notice of Award or fails at time of executing the contract to furnish a construction performance bond and construction payment bond guaranteeing the faithful performance of the work.

Bids may not be withdrawn after the time fixed for opening them. The OWNER reserves the right to reject any and all bids, and to waive any irregularities therein.

Adam Haberman, Public Works Director  
City of Yankton, South Dakota

## **INSTRUCTIONS TO BIDDERS**

BIDS will be received by the Finance Officer of the CITY OF YANKTON, South Dakota (herein called the "OWNER"), at the City Finance Office until 3:00 P.M. on the date specified in the Notice to Bidders or the BIDS may be hand delivered to the Second Floor Meeting Room A, in City Hall, at 416 Walnut Street, Yankton, South Dakota until 3:00 P.M. on the date specified in the Notice to Bidders, whereupon they will be publicly opened and read aloud.

Each BID must be submitted in a sealed envelope, addressed to The Board of City Commissioners, c/o City Finance Officer, Yankton, South Dakota. Each sealed envelope containing a BID must be plainly marked on the outside with the name of the project for which the BID is submitted, and the name of the BIDDER and the bidder's address. If forwarded by mail, the sealed envelope containing the BID must be enclosed in another envelope addressed to the City of Yankton, 416 Walnut Street, Yankton, South Dakota 57078.

All BIDS must be made on the required BID forms. All blank spaces for BID prices must be filled in, in ink or typewritten, and the BID form must be fully completed and executed when submitted. Only one copy of the BID form is required.

The OWNER may waive any informalities or minor defects or reject any and all BIDS. Any BID may be withdrawn prior to the above scheduled time for the opening of BIDS or authorized postponement thereof. Any BID received after the time and date specified shall not be considered. No BIDDER may withdraw a BID within thirty (30) days after the actual date of the opening thereof. Should there be reasons why the contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the OWNER and the BIDDER.

BIDDERS must satisfy themselves of the accuracy of the estimated quantities in the BID schedule by examination of the site and a review of the drawings and specifications including ADDENDA. After BIDS have been submitted, the BIDDER shall not assert that there was a misunderstanding concerning the quantities of WORK or of the nature of the WORK to be done.

The OWNER shall provide to BIDDERS prior to BIDDING, all information which is pertinent to, and delineates and describes, the land owned and rights of way acquired or to be acquired.

The CONTRACT DOCUMENTS contain the provisions required for the construction of the PROJECT. Information obtained from an officer, agent, or employee of the OWNER or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any of the conditions of the contract.

Each BID must be accompanied by a certified check, cashier's check or draft, for five percent of the amount of the BID, such check to be certified or issued by either a state or a national bank and payable to the OWNER, or in lieu thereof a BID BOND for ten percent of the amount of the BID, such bond to be issued by a surety authorized to do business in the State of South Dakota payable to the OWNER, as a guaranty that such BIDDER will enter into a contract with the OWNER, in accordance with the terms of such letting and BID in case such BIDDER be awarded the contract.

As soon as the BID has been awarded, the OWNER will return the BONDS of all unsuccessful BIDDERS. The BID BOND of the successful BIDDER will be retained until the CONTRACT, PAYMENT BOND and the PERFORMANCE BOND have been executed and approved, after which it will be returned.

A PERFORMANCE BOND and a PAYMENT BOND, each in the amount of 100 percent of the CONTRACT PRICE, with a corporate surety approved by the OWNER, will be required for the faithful performance of the contract.

Attorneys-in-fact who sign BID BONDS or PAYMENT BONDS and PERFORMANCE BONDS must file with each BOND a certified and effective dated copy of their power of attorney.

The party to whom the contract is awarded will be required to execute the Agreement and obtain the PERFORMANCE BOND, PAYMENT BOND and all required insurance certificates within ten (10) calendar days from the date when the NOTICE OF AWARD is delivered to the BIDDER. The NOTICE OF AWARD shall be accompanied by the necessary Agreement and BOND forms. In case of failure of the BIDDER to execute the Agreement, the OWNER may at his option consider the BIDDER in default in which case the BID BOND accompanying the proposal shall become the property of the OWNER.

The OWNER within ten (10) days of receipt of acceptable insurance certificates and Agreement signed by the party to whom the Agreement was awarded shall sign the Agreement and return to such party an executed duplicate of the Agreement.

The NOTICE TO PROCEED shall be issued within ten (10) days of the execution of the Agreement by the OWNER. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period, the time may be extended by mutual agreement between the OWNER and CONTRACTOR.

The OWNER may make such investigations as he deems necessary to determine the ability of the BIDDER to perform the WORK, and the BIDDER shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any BID if the evidence submitted by, or investigation of, such BIDDER fails to satisfy the OWNER that such BIDDER is properly qualified to carry out the obligations of the Agreement and to complete the WORK contemplated therein.

A conditional or qualified BID will not be accepted.

Award will be made to the lowest responsible BIDDER.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the PROJECT shall apply to the contract throughout.

Each BIDDER is responsible for inspecting the site and for reading and being thoroughly familiar with the CONTRACT DOCUMENTS. The failure or omission of any BIDDER to do any of the foregoing shall in no way relieve any BIDDER from any obligation in respect to his BID.

The low BIDDER shall supply the names and addresses of major material SUPPLIERS and SUBCONTRACTORS when requested to do so by the OWNER. The low BIDDER shall supply the names and addresses of major material SUPPLIERS and SUBCONTRACTORS when requested to do so by the OWNER.

Pre-bid inspection trip for prospective BIDDERS is not proposed for this project.

**BID PROPOSAL**

**Airport Acres  
Site Grading and Storm Sewer  
Project # 2022-034**

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

Proposal of \_\_\_\_\_ (hereinafter

called "BIDDER") a corporation, organized and existing under the laws of the State of

\_\_\_\_\_, a partnership, or an individual doing business as:

\_\_\_\_\_.

To: City Finance Officer  
City of Yankton  
Yankton, South Dakota

Proposals to be filed  
no later than 3:00 P.M.  
on September 29, 2022

Gentlemen:

The BIDDER, in compliance with your invitation to bid for this project, having examined the specifications and related documents, being familiar with the site of the proposed work, and being familiar with all of the conditions surrounding the proposed project, including the availability of materials and labor hereby proposes to furnish all labor, materials, and supplies in strict accordance with the CONTRACT DOCUMENTS, within the time set forth therein, and at the prices stated below. This price covers all expenses incurred in performing the work required under the contract documents, of which this proposal is a part.

The undersigned bidder does hereby declare and stipulate that each proposal is made in good faith, without collusion or connection with any other person or persons bidding for the same work, and that it is made in pursuance of and subject to the detailed specifications, and all other contract documents, pertaining to the work to be done, all of which have been examined by the undersigned.

All the various phases of work enumerated in the contract documents with their individual jobs and overhead, whether specifically mentioned, included by implication or appurtenant thereto, are to be performed by the Contractor.

The BIDDER hereby agrees to fully complete the PROJECT by November 30, 2022. The BIDDER further agrees that if he does not complete the project within the time period specified, to pay as liquidated damages, the sum of \$450.00 for each consecutive calendar day the project exceeds the completion date as provided in Section 15 of the GENERAL CONDITIONS.

The BIDDER agrees to perform all the work described in the CONTRACT DOCUMENTS for the following unit prices or lump sum. (Note: BIDS shall include all applicable taxes and fees.)

<b>Street Construction</b>					
<b>Item No.</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Total Price</b>
<b>General Items</b>					
1	Mobilization	1	LS	\$	\$
2	Clearing	1	LS	\$	\$
3	Incidental Work	1	LS	\$	\$
4	Unclassified Excavation	12,120	CuYd	\$	\$
5	Permanent Seed Mix A	665	Lbs	\$	\$
6	Fertilizer	1,275	Lbs	\$	\$
7	Mulching	8	Ton	\$	\$
8	Erosion Control Blanket	6,490	SqYd	\$	\$
9	Vehicle Tracking Control	1	Each	\$	\$
10	Silt Fence	955	LF	\$	\$
11	Mucking Silt Fence	2	CuYd	\$	\$
12	Repair Silt Fence	20	LF	\$	\$
13	9" Erosion Control Waddle	60	LF	\$	\$
14	Inlet Protection	4	Each	\$	\$
15	Sediment Basin Horseshoe Filter	1	Each	\$	\$
16	Class B Rip-Rap	25	Ton	\$	\$
17	Street Sweeping	10	Hour	\$	\$
18	Topsoil Stripping	3,065	CuYd	\$	\$
19	Placing Topsoil	3,065	CuYd	\$	\$
20	Mowing	1	Each	\$	\$
21	Turf Grass Weed Control	1	Each	\$	\$
22	Pond Outlet Structure	1	E	\$	\$

Bid Amount \$ \_\_\_\_\_

\_\_\_\_\_  
 (Bid Amount Written Out)

**Bidder acknowledges receipt of the following addenda:**

Date: \_\_\_\_\_ Number: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Bidder understands that the Owner reserves the right to reject any or all bids, to waive any informalities in the bidding and to award the contract in the best interest of the Owner.

Respectfully submitted:

_____ Name of Firm	_____ Federal ID No.
_____ Officer	
_____	
_____ Address	_____ Telephone No.



**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called PRINCIPAL, and

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

hereinafter called SURETY, are hereby held and firmly bound unto the CITY OF YANKTON, SOUTH DAKOTA, hereinafter called OWNER, in the penal sum of \_\_\_\_\_ Dollars, (\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which, will and truly to be made, we hereby jointly and severally bind ourselves, successors, and assign.

THE CONDITON OF THIS OBLIGATION is such that whereas, the PRINCIPAL has submitted the accompanying BID PROPOSAL, dated \_\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

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

NOW, THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID be accepted and the PRINCIPAL shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the SURETY for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The SURETY, for value received, hereby stipulates and agrees that the obligations of said SURETY and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said SURETY does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the PRINCIPAL and the SURETY have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

\_\_\_\_\_(LS)  
PRINCIPAL

by \_\_\_\_\_(s)

ATTEST:

\_\_\_\_\_  
(Principal) Secretary

(SEAL)

\_\_\_\_\_  
(Witness as to Principal)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
SURETY  
BY \_\_\_\_\_

ATTEST:

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

(SEAL)

\_\_\_\_\_  
(Witness as to Surety)

\_\_\_\_\_  
(Address)

**IMPORTANT:** Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of South Dakota

**BIDDERS STATEMENT OF QUALIFICATIONS**

(Must be submitted with bid)

To: City of Yankton  
Yankton, South Dakota

Date Submitted:\_\_\_\_\_

The following statements of qualification and experience are current for:

Name of Organization:\_\_\_\_\_

Address:\_\_\_\_\_

We are incorporated in the State of:\_\_\_\_\_

Our principal work is:\_\_\_\_\_

We are licensed to perform this work in the State of South Dakota at the present time: (Yes)  
(No)

**EXPERIENCE RECORD**

A. Completed projects of comparable nature (list 3 minimum)

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Location & Description of Work	Owner	Contract Amount	Date Completed
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B. Work in Progress

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Location & Description of Work	Owner	Contract Amount	Date Completed
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The following list of equipment is proposed for use on this project:

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Description	Manufacturer	Size & Class	Capacity	Year
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(use additional sheets if required)

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Our superintendent for this project will be: \_\_\_\_\_

His experience includes:

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General statement of experience and qualifications of this organization includes:

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We propose to use the following major suppliers (include name & address of suppliers and equipment manufacturing type, and model no.'s if more than one type is offered by specifications):

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We propose to use the following subcontractors (name & address):

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Our Bonding Company is: \_\_\_\_\_

Address: \_\_\_\_\_

We propose to accomplish the required work on this project using the step-by-step approach, or schedule, and personnel as herein stated: (use extra sheets as required)

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I certify that all the statements outlined above or attached hereto are a true representation of:

Name of Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Prepared by: \_\_\_\_\_

(Signature)

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

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

## NOTICE OF AWARD

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

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

OWNER'S PROJECT NO. \_\_\_\_\_

PROJECT: \_\_\_\_\_

CONTRACT FOR: \_\_\_\_\_

You are notified that your bid, dated \_\_\_\_\_

for the above contract has been considered. You are the apparent Successful Bidder and have been awarded a contract for (all items contained on the Bid Itemization).

\_\_\_\_\_  
(Indicate total work, alternates or sections of work awarded)

The contract price of your contract is

\_\_\_\_\_ dollars

(Written out)

\$ \_\_\_\_\_.

Three copies of each of the proposed Contract Documents accompany this Notice of Award.

You must comply with the following conditions precedent within ten (10) days of the Notice of Award, that is by \_\_\_\_\_.

(Date)

- 1. You must deliver to the OWNER three (3) fully executed counterparts of the Agreement.**
- 2. You must deliver with executed Agreement, the Contract Security (bonds) as specified in the Instructions to Bidders and General Conditions.**
- 3. Provide Certificate of Insurance with the Contract.**
- 4. List other conditions precedent: \_\_\_\_\_**

Failure to comply with these conditions within the time specified will entitle the OWNER to consider your bid abandoned to annul the Notice of Award and to declare your Bid Security forfeited.

Within the ten (10) days after you comply with those conditions, the OWNER will return to you one fully signed counterpart of the Agreement with the Contract Documents attached.

CITY OF YANKTON, SOUTH DAKOTA

By: \_\_\_\_\_

\_\_\_\_\_  
(Title)

You are required to return an acknowledged copy of the NOTICE OF AWARD to the OWNER.

ACCEPTANCE OF NOTICE OF AWARD

Receipt of the above NOTICE OF AWARD is hereby acknowledged by

\_\_\_\_\_ this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

By: \_\_\_\_\_

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

**AGREEMENT**

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, by and between the CITY OF YANKTON, SOUTH DAKOTA, hereinafter called "OWNER", and

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business as (an individual,) or (a partnership,) or (a corporation) hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction of

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2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the PROJECT described herein.

3. The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS within 10 calendar days after the NOTICE TO PROCEED and will complete the same by November 30, 2022, unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS.

4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of \$ \_\_\_\_\_ or as shown in the BID schedule

5. The term "CONTRACT DOCUMENTS" means and includes the following:

- (A) Advertisement for Bids
- (B) Instruction to Bidders
- (C) Bid Proposal
- (D) Bid Bond
- (E) Bidders Statement of Qualifications
- (F) Agreement
- (G) General Conditions
- (H) Supplemental General Conditions
- (I) Payment Bond
- (J) Performance Bond
- (K) Notice of Award
- (L) Notice to Proceed
- (M) Change Order
- (N) Waiver and Release of Lien
- (O) Specifications prepared or issued by The City of Yankton dated \_\_\_\_\_
- (P) Addenda:
  - No. \_\_\_\_\_, dated \_\_\_\_\_
  - No. \_\_\_\_\_, dated \_\_\_\_\_





**PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called PRINCIPAL, and

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

hereinafter called SURETY, are hereby held and firmly bound unto the CITY OF YANKTON, SOUTH DAKOTA, hereinafter called OWNER, in the penal sum of \_\_\_\_\_ Dollars, (\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL has entered into a contract with the OWNER, dated \_\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

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

NOW, THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms, SUBCONTRACTORS and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and all insurance premiums on said WORK, and for all labor, performed in such WORK whether by SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said SURETY, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation in this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, the PRINCIPAL and the SURETY have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

\_\_\_\_\_(L.S.)  
PRINCIPAL

By \_\_\_\_\_(s)

ATTEST:

\_\_\_\_\_  
(Principal) Secretary  
(SEAL)

\_\_\_\_\_  
(Witness as to Principal)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
(Surety) Secretary  
(SEAL)

\_\_\_\_\_  
(Witness as to Surety)

\_\_\_\_\_  
(Address)

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of South Dakota.

**ACKNOWLEDGMENT OF PRINCIPAL  
(Individual)**

State of \_\_\_\_\_ )  
: SS  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_,  
known to me to be the individual described in and who executed the foregoing instrument and  
acknowledged to me that he executed the same.

\_\_\_\_\_  
Notary Public

My Commission expires the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**ACKNOWLEDGMENT OF PRINCIPAL  
(Partnership)**

State of \_\_\_\_\_ )  
: SS  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_,  
who acknowledged himself to be one of the partners of \_\_\_\_\_  
a partnership, and that he, as such partner, be authorized so to do executed the foregoing  
instrument for the purposes therein contained, by signing the name of the partnership by himself  
as a partner.

\_\_\_\_\_  
Notary Public

My Commission expires the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**ACKNOWLEDGMENT OF PRINCIPAL  
(Corporation)**

State of \_\_\_\_\_)

: SS

County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, who acknowledged himself to be the \_\_\_\_\_ of \_\_\_\_\_, a corporation, and that he, as such \_\_\_\_\_ being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**AFFIDAVIT OF CORPORATE SURETY**

State of \_\_\_\_\_)

: SS

County of \_\_\_\_\_)

\_\_\_\_\_  
Affiant

\_\_\_\_\_, being first duly sworn on oath, deposes and says that he is the \_\_\_\_\_ of \_\_\_\_\_; and that he is duly authorized to execute and deliver the foregoing obligation; that said company is authorized to execute the same and has complied in all respects with the laws of \_\_\_\_\_ in reference to becoming sole surety upon bonds, undertakings and obligations.

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public Residing In:  
\_\_\_\_\_

My Commission expires the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called PRINCIPAL, and

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

hereinafter called SURETY, are hereby held and firmly bound unto the CITY OF YANKTON, SOUTH DAKOTA, hereinafter called OWNER, in the penal sum of \_\_\_\_\_ Dollars, (\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL has entered into a contract with the OWNER, dated \_\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

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

NOW, THEREFORE, if the PRINCIPAL shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the SURETY, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said SURETY, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation in this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, the PRINCIPAL and the SURETY have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

\_\_\_\_\_(L.S.)  
PRINCIPAL  
By \_\_\_\_\_(s)

ATTEST:

\_\_\_\_\_  
(Principal) Secretary  
(SEAL)

\_\_\_\_\_  
(Witness as to Principal)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
(Surety) Secretary  
(SEAL)

\_\_\_\_\_  
(Witness as to Surety)

\_\_\_\_\_  
(Address)

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of South Dakota.

**ACKNOWLEDGMENT OF PRINCIPAL  
(Individual)**

State of \_\_\_\_\_)

: SS

County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

\_\_\_\_\_  
Notary Public

My Commission expires the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**ACKNOWLEDGMENT OF PRINCIPAL  
(Partnership)**

State of \_\_\_\_\_)

: SS

County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, who acknowledged himself to be one of the partners of \_\_\_\_\_, a partnership, and that he, as such partner, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the partnership by himself as a partner.

\_\_\_\_\_  
Notary Public

My Commission expires the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.



**ACKNOWLEDGMENT OF PRINCIPAL  
(Corporation)**

State of \_\_\_\_\_)

: SS

County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, who acknowledged himself to be the \_\_\_\_\_ of \_\_\_\_\_, a corporation, and that he, as such \_\_\_\_\_ being authorized to so do, by signing the name of the corporation by himself as \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**AFFIDAVIT OF CORPORATE SURETY**

State of \_\_\_\_\_)

: SS

County of \_\_\_\_\_)

\_\_\_\_\_  
Affiant

\_\_\_\_\_, being first duly sworn on oath, deposes and says that he is the \_\_\_\_\_ of \_\_\_\_\_, that he is duly authorized to execute and deliver the foregoing obligation; that said company is authorized to execute the same and has complied in all respects with the laws of \_\_\_\_\_ in reference to becoming sole surety upon bonds, undertakings and obligations.

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public Residing In  
\_\_\_\_\_

My Commission expires the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTICE TO PROCEED**

Dated \_\_\_\_\_, 20\_\_\_\_

TO: \_\_\_\_\_  
(Contractor)

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

PROJECT NO: \_\_\_\_\_

PROJECT: \_\_\_\_\_

CONTRACT FOR: \_\_\_\_\_

You are notified that the correct time under the above contract will commence to run on \_\_\_\_\_ . By that date, you are to start performing your obligations under the Contract Documents. In accordance with the Agreement the date of final completion is \_\_\_\_\_ .

Other requirements, if any  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Owner)

By \_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Title)

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by

\_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature)

**CHANGE ORDER**

PROJECT TITLE: \_\_\_\_\_ CHANGE ORDER NO.: \_\_\_\_\_

PROEJCT NO: \_\_\_\_\_ DATE: \_\_\_\_\_

DESCRIPTION: \_\_\_\_\_

The following changes are hereby made to the Contract Documents:

Quantity      Each      Total

Total Amount of this Change Order \$ \_\_\_\_\_

JUSTIFICATION:

Original Contract Amount: \$ \_\_\_\_\_  
Current Contract Amt. Adjusted by Previous Change Orders: \$ \_\_\_\_\_  
Contract Amt. due to this Change Order will be (increased)(decreased) by: \$ \_\_\_\_\_  
Contract Amount including this Change Order will be: \$ \_\_\_\_\_

Contract Time will be (increased)(decreased) by \_\_\_\_\_  
Completion Date for all work will be \_\_\_\_\_

APPROVAL:

ORDERED BY: \_\_\_\_\_  
City of Yankton

ACCEPTED BY: \_\_\_\_\_  
Contractor

**WAIVER AND RELEASE OF LIEN**

WHEREAS, the undersigned, \_\_\_\_\_  
(Manufacturer, Materialman, Subcontractor)

has furnished to \_\_\_\_\_ the following  
(Name of Contractor)

\_\_\_\_\_ for use in the construction  
(Kind of Material and Services Furnished)

of a project belonging to \_\_\_\_\_, and  
(Name of Owner)

designated as \_\_\_\_\_  
(Name of Project)

NOW, THEREFORE, the undersigned:

\_\_\_\_\_ for and in  
(Manufacturer, Materialman, Subcontractor)

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

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

\_\_\_\_\_  
(Manufacturer, Materialman or Subcontractor)

By: \_\_\_\_\_

## GENERAL CONDITIONS

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## **GENERAL CONDITIONS**

### **1. DEFINITIONS:**

1.1 Wherever used in the contract documents the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof.

1.2 **ADDENDA:** Written or graphic instruments issued prior to the execution of the agreement, which modify or interpret the contract documents' drawings and specifications by additions, deletions, clarifications or corrections.

1.3 **BID:** The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the work to be performed.

1.4 **BIDDER:** Any person, firm or corporation submitting a bid for the work.

1.5 **BONDS:** Bid, performance and payment bonds and other instruments of security furnished by the contractor and his surety in accordance with the contract documents.

1.6 **CHANGE ORDER:** A written order to the contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.

1.7 **CONTRACT DOCUMENTS:** The contract, including advertisement for bids, information for bidders, bid, bid bond, agreement, payment bond, performance bond, notice of award, notice to proceed, change order, drawings, specifications and addenda.

1.8 **CONTRACT PRICE:** The total monies payable to the contractor under the terms and conditions of the contract documents.

1.9 **CONTRACT TIME:** The number of calendar days stated in the contract documents for the completion of the work.

1.10 **CONTRACTOR:** The person, firm or corporation with whom the owner has executed the agreement.

1.11 **DRAWINGS:** The part of the contract documents which show the characteristics and scope of the work to be performed and which have been prepared or approved by the Engineer.

1.12 **ENGINEER:** The person, firm or corporation named as such in the contract documents.

1.13 **FIELD ORDER:** A written order effecting a change in the work not involving an adjustment in the contract price or an extension of the contract time issued by the Engineer to the contractor during construction.

1.14 **NOTICE OF AWARD:** The written notice of the acceptance of the bid from the owner to the successful bidder.

1.15 **NOTICE TO PROCEED:** Written communication issued by the owner to the contractor authorizing him to proceed with the work and establishing the date of commencement of the work.

1.16 **OWNER:** A public or quasi-public body or authority, corporation, association, partnership, or individual for whom the work is to be performed.

1.17 **PROJECT:** The undertaking to be performed as provided in the contract documents.

1.18 **RESIDENT PROJECT REPRESENTATIVE:** The authorized representative of the owner who is assigned to the project site or any part thereof.

1.19 **SHOP DRAWINGS:** All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the contractor, a subcontractor, manufacturer, supplier or distributor which illustrate how specific portions of the work shall be fabricated or installed.

1.20 **SPECIFICATIONS:** A part of the contract documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.

1.21 **SUBCONTRACTOR:** An individual, firm or corporation having a direct contract with the contractor or with any other subcontractor for the performance of a part of the work at the site.

1.22 **SUBSTANTIAL COMPLETION:** That date as certified by the Engineer when the construction of the project or a specified part thereof is sufficiently completed in accordance with the contract documents so that the project or specified part can be utilized for the purpose for which it is intended.

1.23 **SUPPLEMENTAL GENERAL CONDITIONS:** Modifications to general conditions required by a Federal agency for participation in the project and approved by the agency in writing prior to inclusion in the contract documents, or such requirements that may be imposed by applicable state laws.

1.24 **SUPPLIER:** Any person or organization who supplies materials or equipment for the work including that fabricated to a special design, but who does not perform labor at the site.

1.25 **WORK:** All labor necessary to produce the construction required by the contract documents and all materials and equipment incorporated or to be incorporated in the project.

1.26 **WRITTEN NOTICE:** Any notice to any party of the agreement relative to any part of this agreement in writing and considered delivered and the service thereof completed when posted by certified or registered mail to the said party at his last given address or delivered in person to said party or his authorized representative on the work.

## **2. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS:**

2.1 The contractor may be furnished additional instructions and detail drawings by the Engineer as necessary to carry out the work required by the contract documents.

2.2 The additional drawings and instruction thus supplied will become a part of the contract documents. The contractor shall carry out the work in accordance with the additional detail drawings and instructions.

## **3. SCHEDULES, REPORTS AND RECORDS:**

3.1 The contractor shall submit to the owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data where applicable as are required by the contract documents for the work to be performed.

3.2 Prior to the first partial payment estimate the contractor shall submit construction progress schedules showing the order in which he proposes to carry on the work including dates at which he will start the various parts of the work and, as applicable, the dates at which special detail drawings will be required and respective dates for submission of shop drawings, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.

3.3 The contractor shall also submit a schedule of payments that he anticipates he will earn during the course of the work.

## **4. DRAWINGS AND SPECIFICATIONS:**

4.1 The intent of the drawings and specifications is that the contractor shall furnish all labor, materials, tools, equipment and transportation necessary for the proper execution of the work in accordance with the contract documents and all incidental work necessary to complete the project in an acceptable manner ready for use, occupancy or operation by the owner.

4.2 In case of conflict between the drawings and specifications, the specifications shall govern. Figure dimensions on drawings shall govern over scale dimensions and detailed drawings shall govern over general drawings.

4.3 Any discrepancies found between the drawings and specifications and site conditions or any inconsistencies or ambiguities in the drawings or specifications shall be immediately reported to the Engineer in writing who shall promptly correct such inconsistencies or ambiguities in writing. Work done by contractor after his discovery of such discrepancies, inconsistencies or ambiguities and prior to the Engineer's written response shall be done at the contractor's risk.

## **5. SHOP DRAWINGS:**

5.1 The contractor shall provide shop drawings as may be necessary for the prosecution of the work as required by the contract documents. The Engineer shall promptly review all shop drawings. The Engineer's approval of any shop drawings shall not release the contractor from responsibility for deviations from the contract documents. The approval of any shop drawings, which substantially deviates from the requirement of the contract documents, shall be evidenced by a change order.



5.2 When submitted for the Engineer's review shop drawings shall bear the contractor's certification that he has reviewed, checked and approved the shop drawings and that they are in conformance with the requirements of the contract documents.

5.3 Portions of the work requiring a shop drawing or sample submission shall not begin until the shop drawing or submission has been approved by the Engineer. A copy of each approved shop drawing and each approved sample shall be kept in good order by the contractor at the site and shall be available to the Engineer.

## **6. MATERIALS, SERVICES AND FACILITIES:**

6.1 It is understood that, except as otherwise specifically stated in the contract documents, the contractor shall provide and pay for all material, labor, tools, equipment, water, lights, power, transportation, supervision, temporary construction of any nature and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the work within the specified time.

6.2 Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the work. Stored materials and equipment to be incorporated in the work shall be located so as to facilitate prompt inspection.

6.3 Manufactured articles, materials and equipment shall be applied, installed, connected, used, cleaned and conditioned as directed by the manufacturer.

6.4 Materials, supplies and equipment shall be in accordance with samples submitted by the contractor and approved by the Engineer.

6.5 Materials, supplies or equipment to be incorporated into the work shall not be purchased by the contractor or the subcontractor subject to a chattel mortgage or under a conditional sale contract or either agreement by which an interest is retained by the seller.

## **7. INSPECTION AND TESTING:**

7.1 All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with generally accepted standards as required and defined in the contract documents.

7.2 The owner shall provide all inspection and testing services not required by the contract documents.

7.3 The contractor shall provide, at his expense, the testing and inspection services required by the contract documents.

7.4 If the contract documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any work to specifically be inspected, tested or approved by someone other than the contractor, the contractor will give the Engineer timely notice of readiness. The contractor will then furnish the Engineer the required certificates of inspection, testing or approval.

7.5 Inspections, tests or approvals by the Engineer or others shall not relieve the contractor from his obligations to perform the work in accordance with the requirements of the contract documents.

7.6 The Engineer and his representatives will at all time have access to the work. In addition, authorized representatives and agents of any participating Federal or State agency be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records. The contractor will provide proper facilities for such access and observation of the work and also for any inspection or testing thereof.

7.7 If any work is covered contrary to the written instructions of the Engineer it must be uncovered for the Engineer's observation and if requested by the Engineer be replaced at the contractor's expense.

7.8 If the Engineer considers it necessary or advisable that covered work be inspected or tested by others, the contractor at the Engineer's request will uncover, expose or otherwise make available for observation, inspection or testing as the Engineer may require, that portion of the work in question furnishing all necessary labor, materials, tools and equipment. If it is found that such work is defective the contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If, however, such work is not found to be defective, the contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate change order shall be issued.

## **8. SUBSTITUTIONS:**

8.1 Whenever a material, article or piece of equipment is identified on the drawings or specifications by reference to brand name or catalog number it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, qualities and function shall be considered. The contractor may recommend the substitution of a material, article or piece of equipment of equal substance and function for those referred to in the contract documents by reference to brand name or catalog number and if in the opinion of the Engineer such material, article or piece of equipment is of equal substance and function to that specified the Engineer may approve its substitution and use by the contractor. Any cost differential shall be deductible from the contract price and the contract document shall be appropriately modified by change order. The contractor warrants that if substitutes are approved, no major changes in the function or general design of the project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the contractor without a change in the contract price or contract time.

## **9. PATENTS:**

9.1 The contractor shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and save the owner harmless from loss on account thereof, except that the owner shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified, however, if the contractor has reason to believe that the design, process or product

specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Engineer.

#### **10. SURVEYS, PERMITS, REGULATIONS:**

10.1 The owner shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the work together with a suitable number of bench marks adjacent to the work as shown in the contract documents. From the information provided by the owner unless otherwise specified in the contract documents, the contractor shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pile locations and other working points, lines, elevations and cut sheets.

10.2 The contractor shall carefully preserve bench marks, reference points and stakes and in case of willful or careless destruction he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

10.3 Permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the contractor unless otherwise stated in the supplemental general conditions. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the owner unless otherwise specified. The contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the contractor observes that the contract documents are at variance therewith, he shall promptly notify the Engineer in writing and any necessary changes shall be adjusted as provided in "Changes in Work" sections below.

#### **11. PROTECTION OF WORK, PROPERTY AND PERSONS:**

11.1 The contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. He will take all necessary precautions for the safety of and will provide the necessary protection to prevent damage, injury or loss to all employees on the work and other persons who may be affected thereby, all the work and all materials or equipment to be incorporated therein whether in storage on or off the site and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

11.2 The contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. He will erect and maintain as required by the conditions and progress of the work all necessary safeguards for safety and protection. He will notify owners of adjacent utilities when prosecution of the work may affect them. The contractor will remedy all damage, injury or loss to any property caused, directly or indirectly in whole or in part by the contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable, except damage or loss attributable to the fault of the contract documents or to the acts or omissions of the owner or the Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part to the fault or negligence of the contractor.

11.3 In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto the contractor without special instruction or authorization from the Engineer or the owner shall act to prevent threatened damage, injury or loss. He will give the Engineer prompt written notice of any significant changes in the work or deviations from the contract documents caused thereby, and a change order shall thereupon be issued covering the changes and deviations involved.

## **12. SUPERVISION BY CONTRACTOR:**

12.1 The contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The contractor will employ and maintain on the work a qualified supervisor or superintendent who shall have been designated in writing by the contractor as the contractor's representative at the site. The supervisor shall have full authority to act on behalf of the contractor and all communications given to the supervisor shall be as binding as if given to the contractor. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

## **13. CHANGES IN THE WORK:**

13.1 The owners may at any time, as the need arises, order changes within the scope of the work without invalidating the Agreement. If such changes increase or decrease the amount due under the contract documents or in the time required for performance of the work an equitable adjustment shall be authorized by change order.

13.2 The Engineer also may at any time by issuing a field order make changes in the details of the work. The contractor shall proceed with the performance of any changes in the work so ordered by the Engineer unless the contractor believes that such field order entitles him to a change in contract price or time or both in which event he shall give the Engineer written notice thereof within seven (7) days after the receipt of the ordered change. Thereafter the contractor shall document the basis for the change in contract price on time within thirty (30) days. The Contractor shall not execute such changes pending the receipt of an executed change order or further instruction from the owner.

## **14. CHANGES IN CONTRACT PRICE:**

14.1 The contract price may be changed only by a change order. The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in the order of precedence listed below:

- (a) Unit prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost for labor, direct overhead, materials, supplies, equipment and other services necessary to complete the work. In addition there shall be added an amount to be agreed upon but not to exceed fifteen (15) percent of the actual cost of the work to cover the cost of general overhead and profit.

## **15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES:**

15.1 The date of beginning and the time for completion of the work are essential conditions of the contract documents and the work embraced shall be commenced on a date specified in the Notice to Proceed.

15.2 The contractor will proceed with the work at such rate of progress to insure full completion within the contract time. It is expressly understood and agreed, by and between the contractor and the owner, that the contract time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.

15.3 If the contractor shall fail to complete work within the contract time or extension of time granted by the owner, the contractor will pay to the owner the amount for liquidated damages as specified in the bid for each calendar day that the contractor shall be in default after the time stipulated in the contract documents.

15.4 The contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following and the contractor has promptly given written notice of such delay to the owner or Engineer.

(1) To any preference, priority or allocated order issued by the owner.

(2) To unforeseeable causes beyond the control and without the fault or negligence of the contractor including but restricted to acts of God, or the public enemy, acts of the owner, acts of another contractor in the performance of a contract with the owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather, and

(3) To any delays of subcontractors occasioned by any of the causes specified in the two paragraphs above.

#### **16. CORRECTION OF WORK:**

16.1 The contractor shall promptly remove from the premises all work rejected by the Engineer for failure to comply with the contract documents, whether incorporated in the construction or not, and the contractor shall promptly replace and re-execute the work in accordance with the contract documents and without expense to the owner and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

16.2 All removal and replacement work shall be done at the contractor's expense. If the contractor does not take action to remove such rejected work within ten (10) days after receipt of written notice the owner may remove such work and store the materials at the expense of the contractor.

#### **17. SUBSURFACE CONDITIONS:**

17.1 The contractor shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the owner by written notice of:

(1) Subsurface or latent physical conditions at the site differing materially from those indicated in the contract documents, or

(2) Unknown physical conditions at the site of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract documents.

17.2 The owner shall promptly investigate the conditions and if he finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the work an equitable adjustment shall be made and the contract documents shall be modified by a change order. Any claim of the contractor for adjustment thereunder shall not be allowed unless he has given the required written notice, provided that the owner may if he determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

#### **18. SUSPENSION OF WORK, TERMINATION AND DELAY:**

18.1 The owner may suspend the work or any portion thereof for a period of not more than ninety days or such further time as agreed upon by the contractor by written notice to the contractor and the Engineer which notice shall fix the date on which work shall be resumed. The contractor will resume that work on the date so fixed. The contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to any suspension.

18.2 If the contractor is adjudged a bankrupt or insolvent or if he makes a general assignment for the benefit of his creditors or if a trustee or receiver is appointed for the contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to subcontractors, or for labor, materials or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the work or if he disregards the authority of the Engineer, or if he otherwise violates any provision of the contract documents then the owner may, without prejudice to any other right or remedy, and after giving the contractor and his surety a minimum of ten (10) days from delivery of a written notice terminate the services of the contractor and take possession of the project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the contractor and finish the work by whatever method he may deem expedient. In such case the contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price exceeds the direct and indirect costs of completing the project, including compensation for additional professional services such excess shall be paid to the contractor. If such costs exceed such unpaid balance the contractor will pay the difference to the owner. Such costs incurred by the owner will be determined by the Engineer and incorporated in a change order.

18.3 Where the contractor's services have been so terminated by the owner said termination shall not affect any right of the owner against the contractor then existing or which may thereafter accrue. Any retention or payment of monies by the owner due the contractor will not release the contractor from compliance with the contract documents.

18.4 After ten (10) days from delivery of a written notice to the contractor and the Engineer the owner may, without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the contract. In such case, the contractor shall be paid for all work executed and any expense sustained plus reasonable profit.

18.5 If, through no act or fault of the contractor, the work is suspended for a period of more than ninety (90) days by the owner or under an order of court or other public authority, or the owner fails to pay the contractor substantially the sum approved by the Engineer or awarded by arbitrators within thirty (30) days of its approval and presentation then the contractor may, after ten (10) days delivery of a written notice to the owner and the Engineer, terminate the contract and recover from the owner payment for all work executed and all expenses sustained in addition and in lieu of terminating the contract. If the Engineer has failed to act on a request for payment or if the owner has failed to make any payment as aforesaid the contractor may upon ten (10) days written notice to the owner and the Engineer stop the work until he has been paid all amounts then due, in which event and upon resumption of the work change orders shall be issued for adjusting the contract price or extending the contract time or both to compensate for the costs and delays attributable to the stoppage of the work.

18.6 If the performance of all or any portion of the work is suspended, delayed or interrupted as a result of a failure of the owner or Engineer to act within the time specified, within a reasonable time, an adjustment in the contract price or an extension of the contract time, or both, shall be made by change order to compensate the contractor for the costs and delays necessarily caused by the failure of the owner or Engineer.

#### **19. PAYMENTS TO CONTRACTOR:**

19.1 At least ten (10) days before each progress payment falls due (but not more than once a month) the contractor will submit to the Engineer a partial payment estimate filled out and signed by the contractor covering the work performed during the period covered by the partial payment estimate and supported by such data as the Engineer may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data satisfactory to owner as will establish the owner's title to the material and equipment and protect his interest therein including applicable insurance. The Engineer will within ten (10) days after receipt of each partial payment estimate either indicate in writing his approval of payment and present the partial payment estimate to the owner, or return the partial payment estimate to the contractor indicating in writing his reasons for refusing to approve payment. In the latter case, the contractor may make the necessary corrections and resubmit the partial payment estimate. The owner will, within ten (10) days of presentation to him of an approved partial payment estimate, pay the contractor a progress payment on the basis of the approved partial payment estimate. The owner shall retain ten (10) percent of the amount of each payment until final completion and acceptance of all work covered by the contract documents. The owner at any time, however, after fifty (50) percent of the work has been completed, if he finds that satisfactory progress is being made, shall reduce retainage to five (5) percent on the current and remaining estimates. When the work is substantially complete (operational or beneficial occupancy) the retained amount may be further reduced below five (5) percent to only that amount necessary to assure completion. On completion and acceptance of a part of the work on which the price is stated separately in the contract documents payment may be made in full including retained percentages, less authorized deductions.

19.2 The request for payment may also include an allowance for the cost of such major materials and equipment, which are suitably stored either at or near the site.

19.3 Prior to substantial completion the owner with the approval of the Engineer and with the concurrence of the contractor may use any completed or substantially completed portions of the work. Such use shall not constitute an acceptance of such portions of the work.

19.4 The owner shall have the right to enter the premises for the purpose of doing work not covered by the contract documents. This provision shall not be construed as relieving the contractor of the sole responsibility for the care and protection of the work or the restoration of any damaged work except such as may be caused by agents or employees of the owner.

19.5 Upon completion and acceptance of the work the Engineer shall issue a certificate attached to the final payment request that he has accepted the work under the conditions of the contract documents. The entire balance found to be due the contractor, including the retained percentages but except such sums as may be lawfully retained by the owner, shall be paid to the contractor within thirty (30) days of completion and acceptance of the work.

19.6 The contractor will indemnify and save the owner or the owner's agents harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, tools and all supplies incurred in the furtherance of the performance of the work. The contractor shall, at the owner's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged or waived. If the contractor fails to do so the owner may, after having notified the contractor either pay unpaid bills or withhold from the contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharge where upon payment to the contractor shall be resumed in accordance with the terms of the contract document, but in no event shall the provisions of this sentence be construed to impose any obligation upon the owner to either the contractor, his surety, or any third party. In paying any unpaid bills of the contractor any payment so made by the owner shall be considered as a payment made under the contract documents by the owner to the contractor and the owner shall not be liable to the contractor for any such payment made in good faith.

19.7 If the owner fails to make payment thirty (30) days after approval by the Engineer in addition to other remedies available to the contract there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until the payment is received by the contractor.

## **20. ACCEPTANCE OF FINAL PAYMENT AS RELEASE:**

20.1 The acceptance by the contractor of final payment shall be and shall operate as a release to the owner of all claims and all liability to the contractor other than claims in stated amounts as may be specifically excepted by the contractor for all things done or furnished in connection with this work and for every act and neglect of the owner and others relating to or arising out of this work. Any payment, however, final or otherwise shall not release the contractor or his sureties from any obligations under the contract documents or the performance bond and payment bond.



## **21. INSURANCE:**

21.1 The contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the contractor's execution of the work, whether such execution be by himself or by any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable:

- (1) Claims under workmen's compensation, disability benefit and other similar employee benefit acts.
- (2) Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees.
- (3) Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees.
- (4) Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the contractor, or (2) by any other person, and
- (5) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom.

21.2 Certificates of insurance acceptable to the owner shall be filed with the owner prior to commencement of the work. These certificates shall contain a provision that coverages afforded under the policies will not be canceled unless at least fifteen (15) days prior written notice has been given to the owner.

21.3 The contract shall procure and maintain at his own expense during the contract time liability insurance as hereinafter specified:

- (1) Contractor's general public liability and property damage insurance including vehicle coverage issued to the contractor and protecting him from all claims for personal injury, including death, and all claims for destruction of or damage to property arising out of or in connection with any operations under the contract documents whether such operations be by himself or by a subcontractor under him or anyone directly or indirectly employed by the contractor or by a subcontractor under him. Insurance shall be written with a limit of liability of not less than \$500,000 for all damages arising out of bodily injury, including death, at any time resulting there from sustained by any one person in any one accident and a limit of liability of not less than \$500,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$200,000 for all property damage sustained by any one person in any one accident and a limit of liability of not less than \$500,000 aggregate for any such damage sustained by two or more persons in any one accident.
- (2) The contractor shall acquire and maintain if applicable fire and extended coverage insurance upon the project to the full insurable value thereof for the benefit of the owner, the contractor and subcontractors as their interest may

appear. This provision shall in no way release the contractor or contractor's surety from obligations under the contract documents to fully complete the project.

21.4 The contractor shall procure and maintain at his own expense during the contract time in accordance with the provisions of the laws of the state in which the work is performed workmen's compensation insurance including occupational disease provisions for all of his employees at the site of the project and in case any work is sublet, the contractor shall require such subcontractor similarly to provide workmen's compensation insurance including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the contractor. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under workmen's compensation statute, the contractor shall provide, and shall cause each subcontractor to provide adequate and suitable insurance for the protection of his employees not otherwise protected.

21.5 The contractor shall secure, if applicable, "All Risk" type builder's risk insurance for work to be performed. Unless specifically authorized by the owner the amount of such insurance shall not be less than the contract price totaled in the bid. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft and smoke during the contract time and until the work is accepted by the owner. The policy shall name as the insured the contractor, the Engineer and the owner.

## **22. CONTRACT SECURITY:**

22.1 The contractor shall within ten (10) days after the receipt of the notice of award furnish the owner with a performance bond and a payment bond in penal sums equal to the amount of the contract price conditioned upon the performance by the contractor of all undertakings, covenants, terms, conditions and agreements of the contract documents and upon the prompt payment by the contractor to all persons supplying labor and materials in the prosecution of the work provided by the contract documents. Such bonds shall be executed by the contractor and a corporate bonding company licensed to transact such business in the state in which the work is to be performed and named on the current list of Surety Companies acceptable on Federal Bonds as published in the Treasury Department Circular Number 570. The expense of these bonds shall be borne by the contractor. If at any time a surety on any such bond is declared a bankrupt or loses its right to do business in the state in which the work is to be performed or is removed from the list of surety companies accepted on Federal bonds the contractor shall within ten (10) days after notice from the owner to do so substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the owner. The premiums on such bond shall be paid by the contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the owner.

## **23. ASSIGNMENTS:**

23.1 Neither the contractor nor the owner shall sell, transfer, assign or otherwise dispose of the contract or any portion thereof or his right, title or interest therein, or his obligations there under, without written consent of the other party.

## **24. INDEMNIFICATION:**

24.1 The contractor will indemnify and hold harmless the owner and the Engineer and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the work provided that any such claims, damages, loss or expense is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property, including the loss of use resulting there from and is caused in whole or in part by any negligent or willful act or omission of the contractor and subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

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

24.3 The obligation of the contractor under this paragraph shall not extend to the liability of the Engineer, his agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications.

## **25. SEPARATE CONTRACTS:**

25.1 The owner reserves the right to let other contracts in connection with this project. The contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate his work with theirs. If the proper execution or results of any part of the contractor's work depends upon the work of any other contractor, the contractor shall inspect and promptly report to the Engineer any defects in such work that render it unsuitable for such proper execution and results.

25.2 The owner may perform additional work related to the project by himself or he may let other contracts containing provisions similar to these. The contractor will afford the other contractors who are parties in such contracts for the owner if he is performing the additional work himself reasonable opportunity for the introduction and storage of materials and equipment and the execution of work and shall properly connect and coordinate his work with theirs.

25.3 If the performance of additional work by other contractors or the owner is not noted in the contract documents prior to the execution of the contract written notice thereof shall be given to the contractor prior to starting any such additional work. If the contractor believes that the performance of such additional work by the owner or others involves him in additional expense or entitles him to an extension of the contract time he may make a claim therefor as provided in prior sections.

**26. SUBCONTRACTING:**

26.1 The contractor may utilize the services of specialty subcontractors on those parts of the work, which under normal contracting practices are performed by specialty subcontractors.

26.2 The contractor shall not award work to subcontractors in excess of fifty (50) percent of the contract price without prior written approval of the owner.

26.3 The contractor shall be fully responsible to the owner for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by them as he is for the acts and omissions of persons directly employed by him.

26.4 The contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the contractor by the terms of the contract documents insofar as applicable to the work of subcontractors and to give the contractor the same power as regards terminating any subcontract that the owner may exercise over the contractor under any provision of the contract documents.

26.5 Nothing contained in this contract shall create any contractual relation between any subcontractor and the owner.

**27. ENGINEER'S AUTHORITY:**

27.1 The Engineer shall act as the owner's representative during the construction period. He shall decide questions that may arise as to quality and acceptability of materials furnished and work performed. He shall interpret the intent of the contract documents in a fair and unbiased manner. The Engineer will make visits to the site and determine if the work is proceeding in accordance with the contract documents.

27.2 The contractor will be held strictly to the intent of the contract documents in regard to the quality of materials, workmanship and execution of the work. Inspections may be made at the factory or fabrication plant of the source of material supply.

27.3 The Engineer will not be responsible for the construction means, controls, techniques, sequences, procedures or construction safety.

27.4 The Engineer shall promptly make decisions relative to interpretation of the contract documents.

**28. LAND AND RIGHT-OF-WAY:**

28.1 Prior to issuance of notice to proceed the owner shall obtain all land and right-of-way necessary for carrying out and for the completion of the work to be performed pursuant to the contract documents unless otherwise mutually agreed.

28.2 The owner shall provide to the contractor information which delineates and describes the lands owned and right-of-way acquired.

28.3 The contractor shall provide at his own expense and without liability to the owner any additional land and access thereto that the contractor may desire for temporary construction facilities or for storage of materials.

**29. GUARANTY:**

29.1 The contractor shall guarantee all materials and equipment furnished and work performed for a period of one (1) year from the date of substantial completion. The Contractor warrants and guarantees for a period of one (1) year from the date of substantial completion of the system that the completed system is free from all defects due to faulty materials or workmanship and the contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The owner will give notice of observed defects with

**30. ARBITRATION:** (Deleted) - Re Supplementary Conditions

**31. TAXES:**

31.1 The contractor will pay all sales, consumer, use and other similar taxes required by the law of the place where the work is performed.

## **SUPPLEMENTAL GENERAL CONDITIONS**

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

### **SURVEYS, PERMITS, REGULATIONS:**

Add the following to Section 10.3:

The Contractor shall be responsible for securing and paying for all required Federal, State and City permits and licenses necessary for the prosecution of the work. The Contractor prior to commencing work on this project shall be licensed in the City of Yankton as a "Water and Sewer Installation Contractor" or a "Plumbing Contractor" if any water and sanitary sewer work is a part of the project. However, prior to issuing a city license the Contractor shall be licensed as a "Water and Sewer Installation Contractor" or be licensed as a "Plumbing Contractor" in the State of South Dakota, if any water or sanitary sewer system work is called for in this contract.

### **SUBSURFACE CONDITIONS:**

SC.17. Delete paragraph 17.2 of the "General Conditions" entirely and in its place insert the following:

17.2. No subsurface exploration other than that listed on the construction plans was conducted at the proposed construction site. The Contractor is responsible to obtain any information he deems appropriate to allow him to perform the work at the price bid. No extra compensation will be allowed by the Owner for unusual subsurface conditions unless the Engineer finds that such conditions warrant extra compensation.

### **INSURANCE:**

SC.21. Delete paragraph 21 of the General Conditions in its entirety and insert in its place the following:

21.1 During the term of this Contract, the Contractor shall maintain such insurance as will protect him from claims as set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by a subcontractor or sub-subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be held liable:

(A) for claims arising under any Workmen Compensation, Employers Liability, or any similar employee benefit acts;

(B) for claims because of bodily injury, sickness, disease or death of any person or persons other than his employees, and for claims because of damage to or destruction of property of others resulting therefrom, including loss of use thereof.

Such insurance shall be written for amounts not less than the following as respects subparagraph (A) above:

Workmen's Compensation	Statutory
Employers Liability	\$500,000 each occurrence;

and as respects subparagraph (B) above:

- |    |  |  |
|----|--|--|
| 1. | Bodily Injury and Property<br>Damage with a Combined Single<br>Limit of Liability of | \$1,000,000 each occurrence,<br>including collapse and underground liability |
|----|--|--|

or

- |    |   |   |
|----|---|---|
| 2. | Bodily Injury:<br>General and Automobile              | \$1,000,000 each person   |
|    | General and Automobile                                | \$1,000,000 each occurrence, including<br>collapse and underground liability                      |
|    | Property Damage:<br>General and Automobile<br>General | \$500,000 each occurrence<br>\$500,000 aggregate, including collapse<br>and underground liability |

The insurance referred to in subparagraph (B) above shall be written under the Comprehensive General and Comprehensive Automobile Liability policy forms, including coverage for all owned, hired, and non-owned automobiles. The Contractor may at his option provide the limits of liability as set out above by a combination of the above described policy forms and an Umbrella Excess Liability policy. Unless otherwise specifically approved in writing by the Owner the policies shall be written on an "occurrence" basis and not on a "claims made " basis.

"The First National Bank in Sioux Falls" must be listed (as shown here in quotes) as an additional insured party on the contractor's insurance certificate.

"All Risk" type builder's risk insurance **will not** be required on this project.

All responsibility for payment of any sums resulting from any deductible provisions, corridor, or self-insured retention conditions of the policy or policies shall remain with the Contractor.

Proof of insurance shall be submitted directly to the Owner for review and approval with a record copy only to the Engineer for his files. The Contractor shall not begin any work until the Owner has reviewed and approved the Insurance Certificate and has so notified the Contractor directly in writing. Any Notice to Proceed issued shall be subject to such approval by the Owner.

**ARBITRATION:** Delete Paragraph 30 "Arbitration" in its entirety.

## MEASUREMENT AND PAYMENT ITEMS

**Mobilization:** – **Lump sum** price for all preparatory work and operations, including, but not limited to the necessary movement of personnel, equipment, and incidentals to the project site; for the establishment of offices, buildings and other facilities necessary for work on the project; for work and operations which must be performed, and for costs incurred before starting work on the various contract items on the project site.

Mobilization will be paid for as outlined in Section 9.10 of the 1998 South Dakota DOT Standard Specifications.

**Incidental Work:** – **Lump sum** price shall be full compensation for all incidental items listed in the plans or required to complete the project. Field measurement of the incidental items will not be required. Payment for half of the bid item will be made when the project is 50% complete and the other half will be paid for when the project is approved for final payment. Payment will be full compensation for labor, equipment and materials necessary to complete the project.

**Unclassified Excavation:** – **CuYd** price will include all excavation, scarifying and recompacting, embankments, topsoil salvage, hauling, compaction, stockpiling, placing, spreading, and fine grading the surface smooth. Quantities and volumes are listed on the plans for information only. Bidder must determine the accuracy of quantities given and apply appropriate shrink factor prior to bidding. Price is to include scarifying and recompacting the subgrade six (6) inches deep in areas of street pavement if required by plan notes.

**Erosion Control Blanket - SqYd** unit price shall be full compensation, for materials, labor and equipment, necessary to complete the blanket installation as designed.

**Temporary Vehicle Tracking Control: - Per each** unit price shall be the amount paid for each site where the Engineer requires the use of the temporary vehicle tracking control for however long as it is needed. The gravel utilized in the vehicle tracking pad shall be paid for at the unit price bid for service gravel. The temporary vehicle tracking control unit price shall be full compensation for installing, maintaining and removing the device along with cleaning tracked soil from the adjacent street surfacing. The Contractor will be charged \$50.00 for each day that dirt is not cleaned off of the adjacent street after it is placed or tracked onto the adjacent street.

**Silt Fencing: - Per linear foot** unit price as stipulated in the proposal, and called for by the specifications. The Contractor shall regularly inspect and maintain the silt fences. The unit price shall be full compensation for the installation and removal of the silt fence.

**Erosion Control Wattle - LF** unit price shall be full compensation, for materials, labor and equipment, necessary to complete the erosion control as provided for in the plan set.

**Sediment Basin Horseshoe filter - Each** unit price shall be full compensation, for materials, labor and equipment, necessary to complete the erosion control as provided for in the plan set.



**Topsoil: - CuYd** price will include loading, hauling, placing and fine grading to a smooth surface and ready for seeding and sodding. Quantities and volumes are listed on the plans for information only. Bidder must determine the accuracy of quantities given and apply appropriate shrink factor prior to bidding.

**Outlet Structure: - Per each** unit price for the type and style call for in the plans and proposal will be full compensation for structural excavation and back fill, all materials including concrete and reinforcing steel, ring and cover, casting, forming, placement and items required for concrete placement.

## TECHNICAL INFORMATION AND REQUIREMENTS

### **SECTION 101 GENERAL:**

The following requirements are a part of the General Conditions of the contract and shall be used in conjunction with them as a part of the contract documents. Should there be any conflict in the General Conditions, these requirements shall govern.

### **SECTION 102 REQUEST FOR APPROVAL - PRODUCTS AND MANUFACTURERS:**

Equivalents to specified products may be accepted at the approval of ENGINEER. Requests for approval of products or material other than those specifically named in the project manual shall be submitted to the ENGINEER for consideration and recommendations at least ten (10) days prior to bid date.

Specific items scheduled by manufacturer catalog numbers are to be used as a basis for bidding. Listing of other products or manufacturers by name shall not in any way be construed as being equal or equivalent for bidding purposes.

All component parts, equipment and materials furnished shall be new, unused, and the same as the manufacturer's current production models.

### **SECTION 103 REPORTS AND TESTING:**

**103.1 Laboratory Testing.** Certain tests and inspections will be necessary for quality control as specified for this project. The OWNER is scheduled to perform the tests and inspections; if not called for in other sections of the specifications, utilizing recognized standard procedures and criteria. Retests required due to initial test failures will be paid for by the CONTRACTOR.

The CONTRACTOR shall furnish all sample materials required for these tests and shall deliver same without charge to the OWNER when and where directed by the OWNER. Any additional tests necessary beyond those required under this specification may be ordered by the ENGINEER to settle disagreements with the CONTRACTOR regarding quality of work done. If the work is defective, the CONTRACTOR shall pay all costs of the extra tests and shall correct the work.

If work is satisfactory, the OWNER will pay for extra tests. Quality testing shall include, but not necessarily be limited to, concrete testing, aggregate testing, soils testing, compaction testing and the like.

**103.2 Factory Testing.** Factory tests of any materials relative to performance, capacity, rating, efficiency, function, or special requirements shall be conducted in the factory or shop for each item when this type of test is specified and/or required by the ENGINEER. These tests shall be performed in accordance with applicable standards and test codes.

Factory tests shall be set up and accomplished by the equipment manufacturer who shall provide all shop space, tools, equipment, instruments, personnel, and other facilities required for the satisfactory completion of each test. Test data and results shall be submitted to the ENGINEER for his review and approval.

The cost of factory tests shall be included in the bid price of the contract and no additional payment will be made for factory testing.

**SECTION 104 EXAMINATION OF PREMISES:**

The CONTRACTOR shall inform himself of conditions under which the work is to be performed, concerning the site of the project, the obstacles that may be encountered and all other relevant matters concerning the work to be performed. No extra compensation will be allowed for failure to secure information available prior to bidding.

**SECTION 105 MEASUREMENTS AND PAYMENT FOR INCIDENTAL WORK:**

Prices bid for bid item shall represent full compensation for all labor, materials, equipment, supervision and other incidental items necessary for the performance and completion of each item of work in place, in strict accordance with the Contract Documents. Payment for said item shall therefore include all work, which may be reasonably inferred from the contract documents as being necessary to produce the intended results. All items of work necessary to produce the intended results not specifically contained in the Bid Form shall be considered incidental work to the bid item, and no allowance for separate, additional compensation shall be made.

**SECTION 106 ERRORS, OMISSIONS, AND DISCREPANCIES:**

In the event any error, omission, or discrepancy in or between the plans and specifications exists or appears to exist, the contractor shall not take advantage of same, but must have same explained or adjusted by the engineer before submitting his proposal. Should the contractor fail to give notice and obtain a written decision, clarifying materials or methods required, he shall be deemed to have estimated on the more expensive way of doing the work and shall at his own expense, make good any damage to or defect in his work.

**SECTION 107 CONTRACTORS RESPONSIBILITY:**

Until the final acceptance of the work as evidenced in writing, the CONTRACTOR shall have charge and care thereof and shall take every necessary precaution against injury or damage to any part of the work by action of the elements or other causes. The CONTRACTOR shall make good all damages occurring to any portion of the work before its completion and acceptance and shall bear the expense thereof.

Any material that is lost or stolen before or after it is in place, but before acceptance of the work by the owner, shall be made good at the contractor's expense.

Unless otherwise specified, each CONTRACTOR shall supply all labor, transportation, materials, apparatus, and tools necessary for the entire, proper, and substantial completion of his work, and shall install, maintain, and remove all equipment of the construction and other utensils or things, and be responsible for the safe, proper, and lawful construction, maintenance, and use of same; and shall execute the work in the best and most workmanlike manner, complete with everything properly incidental thereto as shown on the plans, stated in the specifications, or reasonably implied therefrom, all in accordance with the contract documents.

**SECTION 108 LAYING OUT WORK:**

The OWNER will provide reference control points and construction control staking unless provided elsewhere in the specifications. The CONTRACTOR shall be responsible for careful preserving all benchmarks, construction stakes, reference points and monuments. Should destruction of same occur, the CONTRACTOR will bear the expense of their replacement and shall be held responsible for any mistakes or loss of time that may be caused. Permanent benchmarks or monuments, which must be removed or disturbed, shall be protected until properly referenced for relocation.

**SECTION 109 WORKMANSHIP:**

All work shall be done by competent skilled workmen of the different trades to insure a degree of workmanship acceptable to the ENGINEER. There shall be a foreman on the job at all times during working hours who has the authority to act for the CONTRACTOR, to make necessary decisions, and to carry out directions of the CONTRACTOR and the ENGINEER. In the event the CONTRACTOR does not have a complete understanding concerning the work or the materials, he shall refer the matter to the ENGINEER for opinion or decision. This will, however, not relieve the CONTRACTOR of any responsibility concerning the work.

The CONTRACTOR shall notify the ENGINEER before any work is covered up on his work, or on any mechanical work.

The CONTRACTOR shall not install work covering the other trades until they have made their complete installation.

Any work not acceptable shall be promptly removed and replaced at the CONTRACTORS expense and the ENGINEER notified of compliance for inspection.

**SECTION 110 SUB-BIDDERS AND BREAKDOWN:**

The CONTRACTOR shall be responsible for scheduling and coordinating the work of his own crews as well as those of all his Subcontractors and others involved in order to maintain acceptable progress and assure timely completion in accordance with the contract time frame. The CONTRACTOR shall be responsible for complete supervision, control, and progress of his Subcontractors as though they were his own forces. Notice to the CONTRACTOR shall be considered as notice to all affected subcontractors. The CONTRACTOR shall, upon award of the contract, supply the ENGINEER with a complete list of Sub-bidders and Material Suppliers for his approval. Within ten (10) days after award of the contract the CONTRACTOR shall submit a complete breakdown of labor and materials for the ENGINEER'S records.

**SECTION 111 SUBCONTRACTORS:**

All work of the SUBCONTRACTORS for each separate division of the project shall be subject to the Instructions to Bidders, General Conditions and Supplements, and Special Conditions, as if repeated in each separate section of the project manual.

**SECTION 112 INTERRUPTION OF UTILITY SERVICE AND ACCESS:**

The CONTRACTOR shall make every possible effort to minimize the downtime of any utilities or property access, which may be directly or indirectly affected by work performed on this project. The CONTRACTOR shall at all times conduct his work in such a manner as to cause minimum interference with routine daily use.

**The CONTRACTOR shall notify residents affected by his proposed action at least twenty-four (24) hours in advance of such interruptions in residential, commercial and industrial areas and all other areas.**

Notification is to be coordinated with City or other appropriate utility service providers.

**SECTION 113 EXISTING FACILITIES:**

The CONTRACTOR shall take complete field measurements affecting all existing construction in the work, and he shall be solely responsible for proper fit between his work and existing structures.

He shall examine all work to which he will connect; and if any misalignment is found he shall so arrange his work that the misalignment is corrected. Any dimensions given on the Drawings related to existing structures are based on available records and it shall be the responsibility of the CONTRACTOR to verify the accuracy of these dimensions. Any discrepancies shall be brought to the attention of the ENGINEER prior to start of new construction.

**SECTION 114 PROTECTION OF EXISTING STRUCTURES AND ADJACENT PROPERTIES:**

The CONTRACTOR will be held responsible for any damage to existing structures, work, materials, or equipment either on site or off site because of his operations and shall repair or replace any damaged structures, work, materials, or equipment to the satisfaction of, and at no additional cost to the OWNER. The CONTRACTOR shall be responsible for all damage to streets, roads, curbs, sidewalks, highways, shoulders, ditches, embankments, culverts, bridges, or other public or private property structure or facilities which may be caused by transporting equipment, materials, or men to and from work, wind, drainage or other natural events, or by performance of the work. The CONTRACTOR shall make satisfactory and acceptable arrangements with the agency having jurisdiction over the damaged property concerning its repair or replacement.

**SECTION 115 PROTECTION OF EXISTING UTILITIES:**

It is the sole responsibility of the CONTRACTOR to verify the exact location of any and all existing utilities. Locations of any utility shown on the drawings are for informational purposes only and may not represent the exact location, size, type, or depth of said utility. The CONTRACTOR shall give notice to the owners of any such lines or obstructions in order that they may have time to take necessary precautions for protecting their property. Existing utilities shall be protected from damage during excavation and backfilling operations and if damaged, shall be promptly repaired by the CONTRACTOR at his expense. The CONTRACTOR shall be responsible for any injuries to persons and property, for all damages to any pipe, conduit, sewer or other structure injuriously affected by the work and shall save harmless the OWNER, ENGINEER, and state and federal agencies from any liability thereof.

**BEFORE DIGGING CALL 1-800-781-7494 (South Dakota One Call)**

**SECTION 116 ADVERSE CONSTRUCTION CONDITIONS:**

In the event of unsatisfactory weather, wet ground, or other unsuitable construction conditions, the CONTRACTOR shall confine his operations to those portions of the work, which will not be adversely affected. No portion of the work shall be constructed under conditions, which would compromise the quality required unless special precautions are taken by the CONTRACTOR to perform the work in a satisfactory manner acceptable to the ENGINEER.

**SECTION 117 SALVABLE EQUIPMENT AND MATERIAL:**

Any equipment or materials removed during construction, which is deemed salvable by ENGINEER, shall remain the property of the OWNER and shall be carefully preserved by the CONTRACTOR.

**SECTION 118 CLEANING UP:**

The site shall be kept in a tidy condition at all times during the work, and all rubbish removed from the premises. No final payment will be made until all rubbish and debris has been removed. No burning will be permitted on the premises.

The CONTRACTOR and each individual subcontractor shall at all times keep the premises free from accumulations of waste material or rubbish caused by his employees or work, and at the completion of work he shall remove all his rubbish from and about the work site and all his tools, scaffolding, and surplus material. He shall leave his work in a manner acceptable to the ENGINEER.

**SECTION 119      RESPONSIBILITY FOR WORK (WARRANTY):**

Neither the final certificates, nor payment, nor any provision in the contract documents, shall relieve the CONTRACTOR for responsibility for faulty materials or workmanship and, unless otherwise specified, he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance. The OWNER shall give notice of observed defects with reasonable promptness.

**SECTION 120      TEMPORARY CONSTRUCTION FACILITIES:**

Site facilities, which are necessary for construction, shall be provided by and paid for by the CONTRACTOR. These may include but are not necessarily limited to material storage and/or waste areas, utility costs, office space, toilet facilities, storage buildings for the protection of materials and equipment, or other services. As requested by the State Historical Preservation Office (SHPO, staging areas for heavy equipment and material storage must be confined to previously disturbed road right-of-way or established parking lots. All such field office, storage sheds, and the like shall remain the property of the CONTRACTOR and shall be removed after completion of the work and the site restored to its original condition.

When necessary, the CONTRACTOR shall make his own arrangements for electrical power and telephone service at the construction site. Obtaining water for construction purposes shall also be the responsibility of the CONTRACTOR.

The CONTRACTOR shall contact the OWNER to inquire about possible storage areas and material waste areas. However the CONTRACTOR shall be responsible for securing these areas.

**SECTION 121      RECORD COPY OF CONTRACT DOCUMENTS:**

The CONTRACTOR shall maintain a careful up-to-date record of all changes on the drawings during construction. Upon completion of the work, and prior to acceptance by the OWNER, the CONTRACTOR shall file with the ENGINEER one set of complete drawings with all changes and CONTRACTOR'S field construction notes neatly and legibly recorded thereon. Such drawings shall include the exact routing, if changed from drawing location, of sewer, water, gas, fuel oil tanks and lines, buried electrical feeder lines, changes to routing of conduit runs which are buried or concealed in concrete slabs, and any other major buried utility lines. Such information may be used to prepare record drawings for the OWNER.

**SECTION 122      TRAFFIC CONTROL:**

Traffic control necessary for the completion of the project and related operations is considered incidental to the other bid items unless specifically listed as a bid item. All traffic control is to be in accordance with the "Manual on Uniform Traffic Control Devices".

**SECTION 123      GENERAL NOTES AND TECHNICAL SPECIFICATIONS:**

The project manual is divided into various divisions and sections for the convenience of the contractors. Each division is not necessarily all-inclusive as related items may appear in various divisions. The contractor shall be solely responsible to furnish and install all items shown on the drawings, and/or included in the project manual regardless of where they appear.

For this project, the OWNER is incorporating the latest Edition of the South Dakota Department of Transportation (DOT) Standard Specifications for Roads and Bridges. Specific Construction Sections may include:

<u>Section</u>	<u>Description</u>
100	Clearing & Grubbing
110	Removal of Structures & Obstructions
120	Roadway & Drainage Excavation & Embankment
230	Top Soil
250	Incidental Work
380	Portland Cement Concrete
450	Pipe Culverts
462	Concrete for Incidental Construction - Class M-6
480	Reinforcing Steel
634	Traffic Control
882	Aggregates for Granular Bases and Surfacing

Where specific SDDOT specification sections are not mentioned above but are referenced in any of the sections listed above, or relate to work called for on the drawings, those sections will also apply.

Where project manual information conflicts with DOT standards, project manual will govern.

**SECTION 124      COMPACTION OF EARTH EMBANKMENTS AND TRENCH  
BACKFILLING:**

All earth embankments and trench backfill will be compacted to 95% of maximum dry density as determined by AASHTO T-99 unless otherwise specified. Compaction of earth embankments shall be governed by the ordinary compaction method (South Dakota Specifications for Roads and Bridges 1998).

The Transportation Enhancement Materials Manual will be used for testing and materials criteria.