DIVISION OF SOIL CONSERVATION AND WATER QUALITY
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
STATE OF IOWA

BROWN AML RECLAMATION PROJECT
BID NO. IA-133

West One-Half of Section 26 and East One-Half of Section 27, Township 74 North, Range 19 West
Marion County, Iowa

PREPARED FOR: DIVISION OF SOIL CONSERVATION AND WATER QUALITY
MINES AND MINERALS BUREAU
502 EAST 9TH STREET
DES MOINES, IOWA 50319
515-281-4246

PREPARED BY: LT LEON ASSOCIATES, INC.
500 EAST LOCUST STREET, SUITE 400
DES MOINES, IOWA 50309
515-422-7016

SEPTEMBER 2016

BROWN AML RECLAMATION PROJECT
Bid No. IA-133

Project Engineer Certification

LICENSED PROFESSIONAL ENGINEER
LUIS T.
LEON
18685
IOWA

I hereby certify that this engineering document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer under the laws of the State of Iowa.

Signature 9/26/16 Date

Luis T. Leon, P.E.

Iowa License Number 18685

My license renewal date is December 31, 2017.

Pages or sheets covered by this seal: ENTIRE DOCUMENT

BROWN AML RECLAMATION PROJECT
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GENERAL REQUIREMENTS

NOTICE TO BIDDERS

BROWN AML RECLAMATION PROJECT
West One-Half of Section 26 and East One-Half of Section 27,
Township 74 North, Range 19 West, Marion County, Iowa
BID NO. IA-133

Bids will be received by the Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation and Water Quality, 502 East 9th Street, Des Moines, Iowa, 50319, until **3:00 p.m**. local time, on the **14th day of October, 2016,** and opened at a public meeting and read aloud on the date last mentioned.

In general, the work involves, but is not limited to, clearing and grubbing, excavation, pit dewatering and backfill, landform grading, channel construction, revetment placement, erosion control, and temporary seeding. The project includes approximately 134,000 cubic yards of excavation, and approximately 15.8 acres of temporary seeding (permanent seeding to be done by others). The estimated construction cost range for this project is $385,000 to $425,000.

A pre-bid conference will be held at 9:30 a.m., October 3, 2016. The meeting will begin at the Attica Fire Station, Attica, Iowa, and conclude at the project site. Attendance at the prebid meeting is recommended, but is not mandatory.

The Plans and Construction Specifications governing the construction of the proposed improvements have been prepared by Luis Leon, P.E., LT Leon Associates, Inc., and are hereby made a part of this notice by reference and the proposed contract shall be executed in compliance therewith. Copies of the Contract Documents, including Plans, Construction Specifications and Bid Package can obtained at http://www.iowaagriculture.gov/requestForBids.asp or upon written or verbal request to Luis Leon, P.E., LT Leon Associates, Inc., 500 East Locust Street, Suite 400, Des Moines, Iowa, 50309, telephone: 515-422-7016 or email lleon@ltleon.com. In order to be included on the plan holders list, which is required to receive meeting minutes, addenda and an updated plan holders list, interested bidders must make a written or verbal request to LT Leon Associates, Inc.

Questions concerning the Plans and Construction Specifications should be addressed to Luis Leon, P.E., LT Leon Associates, Inc. All other questions concerning other Contract Documents should be addressed to Randy Cooney, Project Coordinator, 515-281-3476. In order to be considered in a final addendum, written questions must be received no later than October 10, 2016.

Published the week beginning September 25, 2016.

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01 BIDDER'S KNOWLEDGE & PRE-BID CONFERENCE

The proposed project is located as specified in the Notice-to-Bidders. Bidders shall familiarize themselves with the Contract Documents and conditions which will affect the construction. Specific items relating to the preparation of bids and the submission thereof are listed elsewhere in the Contract Documents. It will be the responsibility of the bidder to examine all Contract Documents and to make a personal examination of the job site and the physical conditions which may affect bidding and performance under the Contract. Bidders may inspect the project site at their convenience.

A pre-bid conference will be held at the location, date and time as set forth in the Notice-to-Bidders. Attendance at the pre-bid conference by prospective bidders is not mandatory but is encouraged.

02 BIDDER'S QUALIFICATIONS

The bidder will be required to satisfy the Division as to the bidder's integrity, experience, equipment, personnel and financial ability to perform the work. The bidder must meet the following requirements:

- Contractors are required to be prequalified for grading work over $100,000 by the Iowa Department of Transportation.
- Contractors are required to be registered with the Iowa Division of Labor.

If the successful bidder is a non-Iowa corporation, he shall submit proof to the Division, prior to the execution of the contract, of authorization by the Secretary of State to do business in Iowa.

The Contractor must meet all the requirements of the forms listed in Section 11 in order to enter into a contract with the Division for this project.

03 OBTAINING BID DOCUMENTS

A website has been developed for this project that includes an electronic copy of all of the bidding documents. These include Document A – Notice to Bidders, Document B – Instruction to Bidders, Document C – Proposal and Schedule of Prices, Document D – Bid Bond Form, Document F – Targeted and Small Business Enterprise Reporting Form, and Document N – General Conditions. The website also contains the Construction Specifications, the Supplemental Specifications developed by the engineer and the Construction Plans developed by the engineer. Other contract forms will be provided after bidding to the lowest responsible bidder (see Section 11). The documents on this website can be viewed or printed by those interested in the project.

In order to be added to the plan holders list, the interested party must contact the engineer by phone, fax, letter, or e-mail. Those listed as a plan holder will receive meeting notes, any and all addenda and an updated plan holders list. The website will NOT be updated with the meeting notes, plan holders list, and any addenda. These must be received directly from the Engineer or Division.

04 METHOD OF BIDDING

Bidders shall submit unit price bids as required for the work items covered by the Contract Documents. Prices shall cover complete work and include all costs incidental thereto, unless otherwise indicated. The Division may change location, quantities and combination of units as required during the progress of construction. If work is added to the Contract which is not covered by a bid price set forth in the Proposal and Schedule of Prices (*Document C*), a Change Order, including the negotiated cost for said work, will be issued by the Division prior to the work being done.

Bids will be compared using quantities shown in the proposal. The quantities of work so shown represent the Engineer's estimate of work to be completed as shown on the plans and measured in accordance with provisions in this Contract defining the method to be used in measuring such quantities. The Contractor's compensation will be computed on the basis of final quantities of completed work. Where a lump sum is shown on the proposal as a unit bid price for a specified work item, the Contractor will be paid that amount for the completed and accepted work.

In the event of discrepancies between unit prices and unit price extensions listed in bidder's proposal, unit prices shall govern. The bidder must submit a bid for all alternates, if any.

05 SUBMISSION OF BIDS

The bids shall be submitted on the proposal form included herewith. The proposal shall be submitted in a sealed envelope separate from the bid security. The envelope shall bear the return address of the bidder and shall be addressed as follows:

TO: IDALS-DSCWQ, Mines and Minerals Bureau
Attn: Randy Cooney, Project Coordinator
502 East 9th Street
Des Moines, Iowa 50319

PROPOSAL FOR: Brown AML Reclamation Project
Marion County, Iowa
Bid No. IA-133

- The bid shall be signed by a legally authorized representative of the bidder.
- The bid securities shall be placed in a separate No. 10 envelope attached to the envelope containing the bid.
- Only the Proposal and Schedule of Prices *(Document C*) and Targeted and Small Business Enterprise Reporting Form (*Document F)* shall be included in the envelope with the bid (see Article 17 below). Do not submit Plans and/or Specifications with the bid.

06 BID SECURITY

Bidder shall provide a cashier's or certified check or bid bond for the project in the amount of 10% (ten percent) of the base bid (no alternates included). **The bid security shall be made payable to the State of Iowa, Division of Soil Conservation and Water Quality** (hereafter "Division"), and shall be forfeited and become the property of the Division in case the bidder fails or refuses to enter into contract and furnish bond within fourteen (14) calendar days after his proposal has been accepted. Checks will be returned to the bidders.

07 WITHDRAWAL OF BIDS

Bids may be withdrawn anytime prior to the scheduled closing time for receipt of bids but no bid may be withdrawn for a period of thirty (30) calendar days thereafter.

08 EVALUATION OF BIDS AND AWARD OF CONTRACT

The Contract shall be awarded to the lowest responsive, responsible bidder as determined by the Division. In evaluating the bids, the Division may consider such factors as alternates, bid price, experience and responsibility of the bidder and similar factors in determining which bid it deems to be in the best interest of the Division for the project. In comparing bid prices, the total bids of the various bidders shall be determined by applying the unit prices bid for each work item against the estimated work item quantities set forth in the proposal.

09 TAXES

Materials purchased for all construction contracts let by the Division, will be exempt from sales and use tax, including local option taxes. This exemption applies only to materials that are components of the final project. The contractor and subcontractors will be issued a Sales Tax Exemption Certificate from the Division that is specific for a contract. Refer to Iowa Department of Revenue and Finance's website for additional information: http:www.state.ia.us/tax.

The bidder shall include in his proposal all other federal and state taxes required by law.

10 PREFERENCE FOR LABOR AND MATERIALS

The Contractor shall observe all of the laws of the State of Iowa with regard to preference for labor and materials, except that preference for Iowa labor and materials shall not apply when federal funding is to pay for any part of the project. Federally funded are identified in the Notice-to-Bidders. This project is one hundred percent (100%) federally funded; therefore there shall be no preference for Iowa labor and materials.

11 EXECUTION OF CONTRACT

The party to whom the contract is awarded is required to complete the following documents within fourteen (14) days from receipt of the Notice of Award.

a. CONTRACT *(Document I)* including Iowa Department of Labor Public Registration Number
b. PERFORMANCE BOND (*Document J)* with signatures from bonding company
c. NON-DISCRIMINATION CLAUSE *(Document E)* - Signed and dated
d. CERTIFICATION OF NON-SEGREGATED FACILITIES *(Document G)* - Signed and dated
e. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION *(Document H)* - Signed and dated
f. CERTIFICATION REGARDING LOBBYING *(Document M)* – Completed
g. Submit Certificate of Insurance as required in Document N – General Conditions Section 6.01
h. Complete the Application Violator System form (See Section 16)

The Notice-of-Award shall be sent to the Contractor by the Division and shall be accompanied by the necessary contract and bond forms listed above. In case of failure of the bidder to execute the contract, the Division may at his option consider the bidder in default, in which case the bid security accompanying the proposal shall become the property of the Division.

The Division will review all the contract documents received from the contractor and inform him if there are any missing or improperly completed forms. After the Division receives all the properly completed forms, the Division will execute the contract within fourteen (14) days and issue the Notice to Proceed. Should the Division not execute the Contract within such period, the Bidder may with written notice withdraw his signed Contract. Such notice of withdrawal shall be effective upon receipt of the notice by the Division.

The Notice-to-Proceed shall be issued within five (5) days of the execution of the contract by the Division. Should there be reason why the Notice-to-Proceed cannot be issued within such period the time may be extended by mutual agreement between the Division and Contractor. If the Notice-to-Proceed has not been issued within a thirty (30) day period or within a greater period mutually agreed upon, the Contractor may terminate the contract without further liability on the part of either party.

The Contractor must submit a Construction Progress Schedule to the Division and Engineer and schedule a Preconstruction Conference with the Division and Engineer. This Preconstruction Conference must be held within

ten (10) days from the receipt of the Notice-to-Proceed. Additionally the initial Construction Progress Schedule must be submitted to the Engineer and Division within ten (10) days of the receipt of the Notice-to-Proceed. Should there be any reason why either the Preconstruction Conference cannot be held or the initial Construction Progress Schedule cannot be completed within such a period, the time may be extended by mutual agreement between the Division and Contractor. No work may commence on site prior to the Preconstruction Conference.

The Contractor shall commence work within fourteen (14) days of the date that the Notice-to-Proceed is received. The Contractor shall not commence work on site absent an initial Construction Progress Schedule approved by the Division. Should there be any reason why the construction work on site cannot commence within this period the time may be extended by mutual agreement between the Division and Contractor.

The executed contract shall be deemed to include the entire agreement between the parties. The Contractor shall not claim any modifications resulting from representation or promise made by representatives of the Division or other persons.

12 DISQUALIFICATION OF BIDDERS

- Attention of bidders is directed to Section 553 of the current Code of Iowa regarding unlawful combination in making public contracts.
- The bidders are also directed to Section 91C.7 of the current Code of Iowa requiring that any contractor performing construction contracts for the State of Iowa must be registered with the Iowa Division of Labor.
- The bidders are directed to the Iowa Department of Transportation "Standard Specifications for Highway and Bridge Construction" Section 1102.01 COMPETENCY AND QUALIFICATION OF BIDDERS in order to meet the qualification for grading work over $100,000.
- The bidders are directed to *Document H* CERTIFICATION REGARDING DEBARMENT SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION.
- The bidders are directed to *Document M* CONGRESSIONAL LOBBYING REPORTING REQUIREMENTS.
- The bidders are required to acknowledge receipt of all addenda by listing such addenda in the Proposal and Schedule of Prices *(Document C*).
- The bidders are directed to 30 CFR Section 874.16. This eligibility requirement will be reviewed by the Division at the Contractor’s completion of the Applicant Violator System (AVS) form *(Document W*). (See B-16).

13 QUANTITIES

Estimated quantities shown on the proposal form are provided for the Contractor's information and for comparative purposes in awarding a construction contract. Such quantities are intended to represent the work shown on the Plans, measured as defined in the Construction Specifications. However, said quantities are only estimates and are subject to increases and/or decreases during construction of the project.

14 QUESTIONS AND ADDENDA

If any person contemplating submitting a bid for the proposed work, material or equipment is in doubt as to the true meaning of any part of the Plans, Construction Specifications, or other Contract Documents, that person may request an interpretation thereof. The person submitting the request will be responsible for its prompt delivery.

Questions concerning the Plans and Construction Specifications should be addressed to Luis Leon, P.E., LT Leon Associates, Inc., 500 East Locust Street, Suite 400, Des Moines, Iowa, 50309, telephone: 515-422-7016. All other questions concerning other Contract Documents should be addressed to Randy Cooney, Project Coordinator, 515-281-3476. In order to be considered in a final addendum, written questions must be received no later than October 10, 2016.

Any oral interpretation given will be valid only if confirmed by written addendum. Information obtained from an officer, agent, or employee of the Division shall not affect the risks or obligations assumed by the Contractor or relieve him from fulfilling any of the conditions of the Contract. All interpretation requests should be addressed in writing and received no later than the date stipulated in the Notice to Bidders so that responses may be included in an Addendum prior to bid opening.

The Division reserves the right to revise or amend the Contract Documents prior to the date set for receipt of bids. Such revisions and amendments, if any, will be announced by an addendum or addenda to the Contract Documents. Copies of such addenda as may be issued will be furnished to all holders of the Contract Documents and Bid Package. **Bidders are required to acknowledge receipt of all addenda by listing such addenda in the Proposal and Schedule of Prices (*Document C*).**

15 PRECONSTRUCTION CONFERENCE

Following the award of Contract, the Contractor and his major subcontractors will be required to attend a preconstruction meeting at a time and place designated by the Engineer.

16 AVS RECOMMENDATION REQUIREMENT

The successful bidder for an AML contract must be eligible under 30 CFR Section 874.16 at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations. Such eligibility must be confirmed by the completion of the automated Applicant Violator System (AVS) form or update their existing Organization Family Tree (OFT). Therefore, the successful bidder will be required to contact the AVS Office of OSM (800-643-9748) and update existing registration or submit *Document W*, (AVS Recommendation Request) to the AVS Office, as required by OSM. The award of any contract under this solicitation cannot be made until the request has been processed by the OSM-AVS office and reviewed by the Division. Failure on the part of the apparent low bidder to provide a completed AVS form to the Division within in fourteen (14) working days of the Notice-of-Award, or if the applicant is listed as a violator on the AVS, may result in the withdrawal of the award, re-awarding to the next lowest bidder, or rebidding the contract, and forfeiture of all or part of the Bid Bond.

17 SUMMARY OF BID SUBMITTAL REQUIREMENTS

Before submitting a bid, be certain that all documents have been completed properly. Failure to complete and sign all documents and to comply with the requirements listed below can cause the bid not to be read:

A. Bid Security

The bid security must be in the separate No. 10 envelope and attached to the outside of the PROPOSAL AND SCHEDULE OF PRICES envelope. The bid security must be in the minimum amount of ten percent (10%) of the total base bid amount (no alternates included). Bid security must be either:

CERTIFIED CHECK OR CASHIER'S CHECK		**BID BOND**
Drawn on a bank in the State of Iowa, or a bank chartered under the laws of the United States	**OR**	*Executed by a corporation authorized to contract as surety in the State of Iowa - Use Document D*

B. Bid Documents

1. The following documents shall be completed, signed and returned in a larger envelope. **THE BID CANNOT BE READ IF ANY OF THESE DOCUMENTS ARE OMITTED FROM THE ENVELOPE, OR ARE NOT PROPERLY COMPLETED**.

a. PROPOSAL AND SCHEDULE OF PRICES *(Document C)* - Complete each of the following parts:

- Identity of Bidder *(*name and address*)*
- Acknowledgment of addenda, if any have been issued, by listing Addendum No. & Date
- Affidavit notarizing signature of the bidder
- Name of bidder, unit prices and extensions with total bid amount noted, and alternates if any

b. TARGETED SMALL BUSINESS ENTERPRISE REPORTING FORM *(Document F)* – Completed.

If this document has only the bidder's name and address, thereby indicating no solicited quotes, or if solicitations were made which resulted in a small or zero percent minority participation, the bid will still be read and will be considered just as if the Division's ten percent (10%) goal, or more, minority participation had been achieved.

NOTE: ALL BID DOCUMENTS MUST BE SUBMITTED AS PRINTED. NO ALTERATIONS, ADDITIONS, OR DELETIONS ARE PERMITTED.

END OF DOCUMENT B

STATE OF IOWA
DIVISION OF SOIL CONSERVATION AND WATER QUALITY
IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Time and Date of Bid Opening: 3:00 p.m., October 14, 2016
Conference Room 2
IDALS-DSCWQ
502 East 9th Street
Des Moines, Iowa 50319

Project Description and Location: Brown AML Reclamation Project
West One-Half of Section 26 and East One-Half of Section 27, Township 74 North, Range 19 West, Marion County, Iowa

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Proposal of: _____
Name of Bidder — Company's Registered Name

Located at: _____ (_____) _____
Business Address Street, City, State, Zip Code — Telephone Number

Amount of Proposal Guarantee	Description of Work	Specified Completion Date	Liquidated Damages Per Day
10% of Base Bid	ALL	December 31, 2017	$250

The undersigned hereby agrees, if awarded the contract, to execute the proposed contract and to furnish satisfactory performance bond in an amount not less than one hundred percent (100%) of the contract award within fourteen (14) days after the date of approval of award of the contract, and to provide all supervision, labor, materials, and equipment required to complete the project designated above, for the prices hereinafter set forth, in strict compliance with the Contract Documents prepared by the Division of Soil Conservation and Water Quality, Iowa Department of Agriculture and Land Stewardship.

The undersigned agrees, if awarded the contract, to commence the work after the preconstruction conference and within fourteen (14) calendar days of receipt of the Notice-to-Proceed. The undersigned further agrees to complete the work within the contract period, or to pay liquidated damages in the amount(s) stipulated herein for each calendar day the work remains uncompleted after the expiration of the contract period.

A proposal guarantee in the amount stipulated herein is included with this proposal, to be forfeited to the Division of Soil Conservation and Water Quality, Iowa Department of Agriculture and Land Stewardship, if the undersigned fails or refuses to execute the contract and furnish satisfactory performance bond, if awarded the contract.

By:_____
Signed

_____
Title Date

In executing this proposal, Bidder acknowledges receipt of Addendum Number _____ dated _____

In executing this proposal, Bidder acknowledges receipt of Addendum Number _____ dated _____

In executing this proposal, Bidder acknowledges receipt of Addendum Number _____ dated _____

THE FOLLOWING AFFIDAVIT MUST BE COMPLETED AND NOTARIZED OR THIS BID WILL BE REJECTED

AFFIDAVIT

The signatory, being duly sworn, does depose and say that the undersigned is an authorized representative of:

Name of Firm: _____

Located at: _____

hereinafter referred to as "Bidder" and does hereby affirm to have personal knowledge that said Bidder has thoroughly examined the Contract Documents, carefully prepared the proposal form, and has checked the same in detail before submitting; and that said Bidder, or the agents, officers, or employees thereof, have not, either directly or indirectly, entered into any agreement, participated in any collusion or fraud, or otherwise taken any action in restraint of free competitive bidding in connection with this bid.

_____
Signed

Subscribed and sworn to before me this _____ day

of _____, 20___

_____
Notary Signature

My Commission Expires _____, 20___

SCHEDULE OF PRICES

Name of Bidder:

Brown AML Reclamation Project
West One-Half of Section 26 and East One-Half of Section 27, Township 74 North, Range 19 West, Marion County, Iowa
Bid No. IA-133

Item No.	Description	Section	Estimated Quantity	Unit	Unit Price	Total
1	MOBILIZATION	02100	1	LUMP SUM		
2	SITE CLEARING AND PREPARATION	02100	16.8	ACRE		
3	IMPOUNDMENT DISCHARGE	02110	1	LUMP SUM		
4	SILT FENCE INSTALLATION	02120	400	LF		
5	SILT FENCE REMOVAL	02120	400	LF		
6	STABILIZED CONSTRUCTION ENTRANCE	02120	35	TON		
7	STABILIZED CONSTRUCTION ENTRANCE REMOVAL	02120	1	LUMP SUM		
8	EXCAVATION	02200	134,000	CY		
9	FINISH GRADING	02200	16.4	ACRE		
10	RIPRAP, CLASS ‘B’	02300	835	TON		
11	RIPRAP, CLASS ‘E’	02300	775	TON		
12	MACADAM STONE (USED FOR CHOKE STONE & FILTER STONE)	02300	480	TON		
13	AGRICULTURAL LIME, SUBGRADE, (20 TON ECCE/ACRE)	02400	308	TON ECCE		
14	MULCH, SUBGRADE, (5 TONS/ACRE)	02400	15.4	ACRE		
15	AGRICULTURAL LIME, SEEDING, (5 TON ECCE/ACRE)	02700	77	TON ECCE		
16	FERTILIZER, NITROGEN (N), (40 LB./ACRE)	02700	632	POUND		
17	FERTILIZER, PHOSPHOROUS (P), (60 LB./ACRE)	02700	948	POUND		
18	FERTILIZER, POTASSIUM (K), (100 LB./ACRE)	02700	1580	POUND		
19	MULCH, SEEDING (2 TONS/ACRE)	02700	15.8	ACRE		
20	INTERIM SEEDING	02700	15.8	ACRE		

TOTAL BASE BID $_____

END OF DOCUMENT C

STATE OF IOWA
DIVISION OF SOIL CONSERVATION AND WATER QUALITY
IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

KNOW ALL MEN BY THESE PRESENT:

That we, _____ of _____ as **PRINCIPAL,**

and _____ of _____

as **SURETY(S),** are hereby held and firmly bound unto the State of Iowa in the penal sum of _____/100 Dollars

($_____) for the payment, whereof, the said **PRINCIPAL** and **SURETY(S)** bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these present.

The conditions of this obligation are such that whereas the **PRINCIPAL** is herewith submitting to the State of Iowa, acting by and through the Division of Soil Conservation and Water Quality, Iowa Department of Agriculture and Land Stewardship, hereinafter called the **DIVISION**, its sealed contract for the following:

Brown AML Reclamation Project
West One-Half of Section 26 and East One-Half of Section 27, Township 74 North, Range 19 West,
Marion County, Iowa
BID NO. IA-133

NOW THEREFORE,
the conditions of this obligation are such that, if said proposal is rejected by the **DIVISION**, or if said proposal is accepted by the **DIVISION** and the **PRINCIPAL** shall enter into a contract in the form specified by the **DIVISION** in accordance with the terms of the Proposal and Schedule of Prices (*Document C*) and shall furnish a bond for the faithful performance of said contract in the form specified by the **DIVISION**, this obligation shall be null and void. Otherwise it shall remain in full force and effect.

In the event that the said proposal is accepted by the **DIVISION** and the **PRINCIPAL** shall fail to enter into the contract as defined herein or shall fail to furnish the performance bond as noted above, within thirty (30) days of the approval of the award, the **PRINCIPAL** and **SURETY(S)** agree to forfeit to the **DIVISION** the penal sum herein mentioned, it being understood that the liability of the **SURETY(S)** shall in no event exceed the penal sum or this obligation.

IN WITNESS WHEREOF,
the above bounden parties have executed this instrument under their several seals this _____ day of _____, 2016, the name and corporate seal of each party being hereto affixed and these present duly signed by its undersigned representative pursuant to authority of its governing body.

PRINCIPAL

By_____

_____

_____

_____

_____

If a partnership, all partners must sign.

SURETY

By_____

END OF DOCUMENT D

NONDISCRIMINATION CLAUSE

All contractors, subcontractors, vendors and suppliers of goods and services doing business with the State of Iowa, Division of Soil Conservation and Water Quality, in which the value of business equals or exceeds $10,000 annually, agree as follows:

1. The contractor, subcontractor, vendor and supplier of goods and services shall not discriminate against an employee or applicant for employment because of race, creed, color, sex, national origin, ancestry, religion, economic status, age, disabilities, experience or education, political opinions, or affiliations. The contractor, subcontractor, vendor and supplier shall develop an Affirmative Action Program to insure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, sex, national origin, ancestry, religion, economic status, age, disability, experience or education, political opinions or affiliations. Such action shall include, but not be limited to, the following:

   a. Employment
   b. Upgrading
   c. Demotion or transfer
   d. Recruitment and advertising
   e. Layoff or termination
   f. Rates of pay or other forms of compensation
   g. Selection for training, including apprenticeship

2. The contractor, subcontractor, vendor and supplier of goods and services shall, in all solicitations or advertisements for employees, state that all qualified applicants shall receive consideration for employment without regard to their race, creed, color, sex, national origin, ancestry, religion, economic status, age, disability, political opinions or affiliations.

3. The contractor, subcontractor, vendor and supplier or collective bargaining representative shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of the contractors' commitments under this section.

4. The contractor, subcontractor, vendor and supplier of goods and services shall comply with all published rules, regulations, directives, and orders of the State of Iowa Affirmative Action Program Contract Compliance Provisions.

5. The contractor, subcontractor, vendor and supplier of goods and services shall furnish and file compliance reports within such time and upon such forms as provided by the Equal Employment Opportunity Officer. The forms may elicit information as to the policies, procedures, patterns, and practices of each contractor, subcontractor, vendor and supplier. The contractor, subcontractor, vendor and supplier shall permit the State's Equal Employment Opportunity Officer access to employment books, records, and accounts for the purpose of investigation to ascertain compliance with this Contract and with rules and regulations of the State's Affirmative Action Program.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations and orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further contracts in accordance with procedures authorized by the State of Iowa.

7. The contractor, subcontractor, vendor and supplier of goods and services shall include, or incorporate by reference, the provisions of the nondiscrimination clause in every contract, subcontract or purchase order unless exempted by the rules, regulations or orders of the State's Affirmative Action Program, and shall provide in every subcontract or purchase order that said provisions shall be binding upon each contractor, subcontractor or seller.

8. We, the undersigned, recognize that we are morally and legally committed to nondiscrimination in employment. Any person who applies for employment with our company shall not be discriminated against because of race, creed, color, sex, national origin, ancestry, religion, economic status, age, or disabilities, unless such disabilities can reasonably be expected to prevent or substantially hinder the performance of the job occupation.

_____ _____
Signature of Appropriate Official **Date**

_____
Title

END OF DOCUMENT E

STATE OF IOWA
DIVISION OF SOIL CONSERVATION AND WATER QUALITY
IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Bidder Name: _____

Address: _____

_____

Project: Brown AML Reclamation Project
West One-Half of Section 26 and East One-Half of Section 27, Township 74 North, Range 19 West, Marion County, Iowa

TO BE COMPLETED BY ALL BIDDERS

You are requested to provide the information on this form showing you targeted Small Business Enterprises by contact made prior to your bid submission. This information is subject to verification and confirmation.

NOTE: The Division of Soil Conservation and Water Quality, Department of Agriculture & Land Stewardship will not regard your acceptance or use of a low quote or bid from a non-targeted Small Business Enterprise on any subcontract item as evidence itself of any lack of good faith effort to solicit targeted Small Business Enterprise subcontractors on this project. However, every effort shall be made to solicit quotes or bids on as many subcontractable items as necessary to evidence affirmative action in contracting.

TABLE OF INFORMATION SHOWING BIDDER'S PRE-BID TARGETED SMALL BUSINESS (TSB) ENTERPRISE CONTACTS

Subcontractor	TSB	Date Contacted	QUOTES RECEIVED		QUOTATION USED IN BIDS	
			Yes/ No	Date	Yes/ No	Dollar Amount Proposed to be Subcontracted
1.						
2.						
3.						
4.						
5.						

END OF DOCUMENT F

STATE OF IOWA
DIVISION OF SOIL CONSERVATION AND WATER QUALITY
IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Applicable to federally assisted construction contracts and related subcontracts exceeding $10,000 which are not exempt from the Equal Opportunity clause.

The federally assisted construction contractor certifies that the said Contractor does not maintain or provide for employees any segregated facilities at any of the Contractor's establishments, and that the Contractor does not permit employees to perform their services at any location, under the Contractor's control, where segregated facilities are maintained. The federally assisted construction contractor certifies further that the said Contractor will not maintain or provide for employees any segregated facilities at any of the Contractor's establishments, and that the Contractor will not permit any employees to perform their services at any location, under the Contractor's control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" mean any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The federally assisted construction contractor agrees that (except where the Contractor has obtained identical certifications from proposed subcontractors for specific time periods) the Contractor will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of Equal Opportunity clause, and that the Contractor will retain such certifications in the files.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

SIGN AND ATTACH TO PROPOSAL FORM

_____
Contractor

_____
Signature

_____
Title Date

END OF DOCUMENT G

U.S. Department of the Interior

Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 43 CFR Part 12, Section 12.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations are included in the proposal package. For further assistance in obtaining a copy of the regulations, contact the U.S. Department of the Interior, Acquisition and Assistance Division, Office of Acquisition and Property Management, 18th and C Streets, N.W., Washington, D.C. 20204

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

_____
Name and Title of Authorized Representative

_____ _____
Signature Date

Instructions for Certification

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

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

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

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

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tiered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

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

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List, Tel. #: (202) 523-4873.

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

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

Executive Order 12549, Debarment and Suspension, 43 CFR Part 12, Section 12.510, Participants' responsibilities.

§ 12.510 Participants' responsibilities.

(a) *Certification by participants in primary covered transactions.*

Each participant shall submit the certification in Appendix A to this subpart for it and its principals at the time the participant submits its proposal in connection with a primary covered transaction, except that States need only complete such certification as to their principals. Participants may decide the method and frequency by which they determine the eligibility of their principals. In addition, each participant may, but is not required to, check the Nonprocurement List for its principals, Telephone (202) 523-4873. Adverse information on the certification will not necessarily result in denial of participation. However, the certification, and any additional information pertaining to the certification submitted by the participant, shall be considered in the administration of covered transactions.

(b) *Certification by participants in lower tier covered transactions.*

(1) Each participant shall require participants in lower tier covered transactions to include the certification in Appendix B to this subpart for it and its principals in any proposal submitted in connection with such lower tier covered transactions.

(2) A participant may rely upon the certification of a prospective participant in a lower tier covered transaction that it and its principals are not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction by any Federal agency, unless it knows that the certification is erroneous. Participants may decide the method and frequency by which they determine the eligibility of their principals. In addition, a participant may, but is not required to, check the Nonprocurement List for its principals and for participants, Telephone: (202) 523-4873.

(c) *Changed circumstances regarding certification.*

A participant shall provide immediate written notice to the Department of the Interior if at any time the participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. Participants in lower tier covered transactions shall provide the same updated notice to the participant to which it submitted its proposals.

Copies of the complete requirements are available from the U.S. Department of the Interior, Acquisition and Assistance Division, Office of Acquisition and Property Management, 18th and C Streets, N.W., Washington DC 20204.

END OF DOCUMENT H

CONGRESSIONAL LOBBYING REPORTING REQUIREMENTS

Public Law 101-121 (1989 H.R. 2788)

Subchapter III of Chapter 13 of Title 31.

§1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

Sec. 319 (a)(1) None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action described in paragraph (2) of this subsection.

(2) The prohibition in paragraph (1) of this subsection applies with respect to the following Federal actions:

(A) The awarding of any Federal contract.

(B) The making of any Federal grant.

(C) The making of any Federal loan.

(D) The entering into of any cooperative agreement.

(E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement from an agency or request or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency, in accordance with paragraph (4) of this subsection --

(A) a written declaration described in paragraph (2) or (3) of this subsection, as the case may be; and

(B) copies of all declarations received by such person under paragraph (5).

(2) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a Federal contract, grant, loan, or cooperative agreement shall contain --

(A) A statement setting forth whether such person --

(i) has made any payment with respect to that Federal contract, grant, loan, or cooperative agreement, using funds other than appropriated funds, which would be prohibited by subsection (a) of this section if the payment were paid for with appropriated funds; or

(ii) has agreed to make any such payment;

(B) with respect to each such payment (if any) and each such agreement (if any) --

(i) the name and address of each person paid, to be paid, or reasonably expected to be paid;

(ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;

(iii) the amount paid, to be paid, or reasonably expected to be paid;

(iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and

(v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and

(C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).

(3) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a commitment providing for the United States to insure or guarantee a loan shall contain --

(A) A statement setting forth whether such person --

(i) has made any payment to influence or attempt to influence an officer or employer of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with that loan insurance or guaranty; or

(ii) has agreed to make any such payment; and

(B) with respect to each such payment (if any) and each such agreement (if any), the information described in paragraph (2)(B) of this subsection.

(4) A person referred to in paragraph (1)(A) of this subsection shall file declaration referred to in that paragraph

(A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a commitment providing for the United States to insure a guarantee a loan;

(B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or of a commitment providing for the United States to insure or guarantee a loan, unless such person previously filed a declaration with respect to such contract, grant, loan, cooperative agreement, or commitment pursuant to clause (A); and

(C) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed be such person in connection with such Federal contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

(5) Any person who requests or receives from a person referred to in paragraph (1) of this subsection a subcontract under a Federal contract, a subgrant or contract under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.

(6) (A) The head of each agency shall collect and compile the information contained, pursuant to paragraphs (2)(B) and (3)(B) of this subsection, in the statements filed under this subsection and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained, pursuant to such paragraphs, in the statements received during the six-month period ending on March 31 or September 30, respectively, of that year. The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

(B) Notwithstanding subparagraph (A) --

(i) information referred to in subparagraph (A) that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees;

(ii) information referred to in subparagraph (A) that is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, is classified in accordance with such order, and is available only by special access, shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees; and Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees; and

(iii) information reported in accordance with this subparagraph shall not be available for public inspection.

(7) The Director of the Office of Management and Budget, after consulting with the Secretary of the Senate and the Clerk of the House of Representatives, shall issue guidance for agency implementation of, and compliance with, the requirements of this section.

(c)(1) Any person who makes an expenditure prohibited by subsection (a) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

(2) (A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(B) A filing of a declaration or a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. For the purposes of this subparagraph, and administrative action is commenced with respect to a failure when and investigating official determines in writing to commence an investigation of an allegation of such failure.

(3) Section 3803 (except for subsection (c)) 3804, 3805, 3806, 3807, 3808, and 3812 of this title shall be applied, consistent with the requirements of the section, to the imposition and collection of civil penalties under this subsection.

(4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

(d)(1) The official of each agency referred to in paragraph (3) of this subsection shall submit to Congress each year an evaluation of the compliance of that agency with, and the effectiveness of, the requirements imposed by this section on the agency, persons requesting or receiving Federal contracts, grants, loans, or cooperative agreements from that agency, and persons requesting or receiving from that agency commitments providing for the United States to insure or guarantee loans. The report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

(2) The report of an agency under paragraph (1) of this subsection shall include the following:

(A) All alleged violations of the requirements of subsections (a) and (b) of this section, relating to the agency's Federal actions referred to in such subsections, during the year covered by the report.

(B) The actions taken by the head of the agency in such year with respect to those alleged violations and any alleged violations of subsections (a) and (b) of this section that occurred before such year, including the amounts of civil penalties imposed by the head of such agency in such year, if any.

(3) The Inspector General of an agency shall prepare and submit the annual report of the agency required by paragraph (1) of this subsection. In the case of an agency that does not have an inspector general, the agency official comparable to an inspector general shall prepare and submit the annual report, or if there is no such comparable official, the head of the agency shall prepare and submit such annual report.

(e)(1) (A) Subsection (a)(1) of this section does not apply in the case of a payment of a reasonable compensation made to an officer of employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2) of this section.

(B) Subsection (a)(1) of this section does not prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of a person requesting or receiving, a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

(C) Nothing in this paragraph shall be construed as permitting the use of appropriated fund for making any payment prohibited in or pursuant to any other provision of law.

(2) The reporting requirement in subsection (b) of this section shall not apply to any person with respect to:

(A) Payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan;

(B) A request for or receipt of a contract (other than a contract referred to in clause (C)), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (C)), or subgrant that does not exceed $100,000; and

(C) A request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed $150,000, including a contract or subcontract to carry out any purpose for which such a loan is made.

(f) The Secretary of Defense may exempt a Federal action described in subsection (a)(2) from the prohibition in subsection (a)(1) whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such determination.

(g) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

(h) As used in the section:

(1) The term “recipient”, with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement --

(A) Includes the contractors, subcontractors, or subgrantees (as the case may be) or the recipient; but

(B) Does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures that are by such tribe or organization for purposes specified in subsection (a) and are permitted by other Federal law.

(2) The term “agency” has the same meaning provided for such term in section 552(f) of title 5, and includes a Government corporation, as defined in section 9101(1) of this title.

(3) The term “person” --

(A) Includes an individual corporation, company, association, authority, firm partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but

(B) Does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.

(4) The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(5) The term “local government” means a unit of government in a State and if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:

(A) A local public authority.

(B) A special district.

(C) An intrastate district.

(D) A council of governments.

(E) A sponsor group representative organization.

(F) Any other instrumentality of a local government.

(6) (A) The terms “Federal contract”, “Federal grant”, “Federal cooperative agreement” mean, respectively --

(i) a contract awarded by an agency.

(ii) a grant made by an agency or a direct appropriation made by law to any person; and

(iii) a cooperative agreement entered into by an agency.

(B) Such terms do not include --

(i) direct United States cash assistance to an individual.

(ii) a loan;

(iii) loan insurance; or

(iv) a loan guaranty.

(7) The term “Federal loan” means a loan made by an agency. Such term does not include loan insurance or a loan guaranty.

(8) The term “reasonable payment” means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(9) The term “reasonable compensation” means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal government.

(10) The term “regularly employed”, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

(11) The terms “Indian tribe” and “tribal organization” have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

Speaker of the House of Representatives.
Vice President of the United States and President of the Senate.

U.S. Department of the Interior

Certification Regarding Lobbying

This certification is required by Section 1352, title 31, U.S. Code, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transaction."

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

Certification for Contracts, Grants, Loans, and Cooperative Agreement

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL. "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of "not less than $10,000 and not more than $100,000 for each such failure."

Signature of Contractor _____ Date _____

DI-1963
(Jan 90)

Approved by OMB
0348-0046

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See following page for public burden disclosure.)

1. Type of Federal Action: *(Circle One)*
   a. contract
   b. grant
   c. cooperative agreement
   d. loan
   e. loan guarantee
   f. loan insurance

2. Status of Federal Action: *(Circle One)*
   a. bid / offer / application
   b. initial award
   c. post-award

3. Report Type: *(Circle One)*
   a. Initial filing
   b. Material change
   For Material Change Only: Year: _____
   Quarter: _____
   Date of last report: _____

4. Name and Address of Reporting Entity: (Circle One)
   Prime Subawardee
   Tier
   lower
   Congressional District, *if known:*

5. If Reporting Entity in No. 4 is Subawardee, enter Name and Address of Prime:
   Division of Soil Conservation and Water Quality
   Dept. of Agriculture & Land Stewardship
   502 East 9th Street
   Des Moines, Iowa 50319
   Congressional District, *if known:* 4

6. Federal Department / Agency:
   Office of Surface Mining & Reclamation Enforcement
   U.S. Department of Interior

7. Federal Program Name / Description:
   Abandoned Mine Land Reclamation
   CFDA Number, *if applicable:* 15.252

8. Federal Action Number, *if known:*
   S15AF200016

9. Award Amount, *if known:*
   $

10. a. Name and Address of Lobbying Entity
    (If an individual, state last name, first name, and middle initial):

    b. Individuals Performing Services *(Last name, first name, middle initial, and address, if different from No. 10a):*

    (Attach continuation sheet(s) SF-LLL-A, if necessary.)

11. Amount of Payment *(Circle One)*
    $ _____ actual planned

12. Form of Payment *(Circle all that apply):*
    a. cash
    b. in-kind; specify: nature _____
    value _____

13. Type of Payment *(Circle all that apply):*
    a. retainer
    b. one-time fee
    c. commission
    d. contingent fee
    e. deferred
    f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment indicated in Item 11:

15. Continuation Sheet(s) SF-LLL-A attached (*Circle One*): Yes No

16. Information requested through this form is authorized by Title 31 (U.S.C. Section 1352). This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

    Signature: _____
    Print Name: _____
    Title: _____
    Telephone No.: _____ Date: _____

Federal Use Only:

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initial or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g. the first subawardee of the prime is the 1st tier Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks “Subawardee”, then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g. Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or load award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., “RFP-DE-90-001.”

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified it item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and review the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Approved by OMB
0348-0046

DISCLOSURE OF LOBBYING ACTIVITIES

CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____

Authorized for Local Reproduction
Standard Form LLL-A

END OF DOCUMENT M

GENERAL CONDITIONS

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SECTION 1 - DEFINITIONS

1-01 GENERAL: In the interpretation and construction of these Contract Documents, or in any documents or instruments dealing with the work governed by these Contract Documents, the following words, terms and abbreviations, or pronouns in place of them, shall each be construed as defined below.

Omissions of words or phrases such as "the Contractor shall," "in conformance with," "shall be," "as noted on the Plans," "according to the Plans," "a," "an," "the," and "all" are intentional, and Contractor must supply omitted words and phrases by inference.

1-02 CONTRACT DOCUMENTS: Those documents listed in the Construction Contract *(Document I)*, including all additions, deletions and modifications incorporated therein before the execution of the Contract. These documents are as follows:

1. Notice to Bidders *(Document A)*
2. Instructions to Bidders *(Document B)*
3. Proposal and Schedule of Prices *(Document C)*
4. Proposal Guarantee Bond *(Document D)*
5. Non Discrimination Clause *(Document E)*
6. Targeted Small Business Enterprise Reporting Form *(Document F)*
7. Certificate of Non-Segregated Facilities *(Document G)*
8. Certification - Lower Tier Debarment & Suspension *(Document H)*
9. Construction Contract *(Document I)*
10. Performance Bond *(Document J)*
11. Equal Employment Opportunity Responsibilities *(Document K)*
12. Congressional Lobbying Reporting Requirements *(Document M)*
13. General Conditions *(Document N)*
14. Supplemental Construction Specifications
15. Approved Change Orders pursuant to Section 4 of the General Conditions *(Document T)*
16. Approved Construction Contract Amendments pursuant to Section 7 of the General Conditions *(Document U)*
17. Applicant Violator System Form *(Document W)*
18. Storm Water Pollution Prevention Plan (SWPPP)
19. Construction Specifications
20. All drawings issued in the set of Plans for this project
21. All Addenda numbers issued for this project
22. Notice-of-Award
23. Notice-to-Proceed

1-03 DIVISION: Division of Soil Conservation and Water Quality, Iowa Department of Agriculture and Land Stewardship, State of Iowa.

1-04 ENGINEER: As defined in Supplemental Construction Specifications.

1-05 WORK OR PROJECT: Work to be done and equipment, supplies, and materials to be furnished under the Contract, General Conditions, Special Conditions, Construction Specifications, Plans, Addenda, and Modifications to these Contract Documents issued subsequent to their initial printing, unless some other meaning is indicated by the context.

1-06 SPECIFICATIONS: The directions and requirements of the detailed Construction Specifications as contained herein, and as modified by the Supplemental Specifications, pertaining to the manner of performing the work or the quantities and quality of materials to be furnished for the specific referenced project.

1-07 PLANS: The official drawings, profiles, typical cross sections and supplemental drawings, or reproductions thereof, approved by Engineer, which show the location, character, dimensions and details of work to be performed. All such drawings, as listed in the Special Conditions, are to be considered as a part of the Contract Documents whether attached to the Contract Documents or separate therefrom.

1-08 BIDDER: An individual, firm, co-partnership or corporation, or combination thereof, submitting a Proposal for the work contemplated and acting directly or through a duly authorized representative.

1-09 PROPOSAL: The written offer or copy thereof of a Bidder to perform the work described by the Contract Documents. This written offer shall be made out and submitted on the prescribed Proposal and Schedule of Prices *(Document C)*, properly signed and guaranteed. A complete Proposal shall contain all of the properly completed and signed documents as described in Article 17 of the Instructions-to-Bidders *(Document B)*.

1-10 PROPOSAL GUARANTEE: Bid security accompanying the Proposal submitted by the Bidder, as a guarantee that the Bidder shall enter into Contract with Division for performance of the work and furnish required insurance forms and bond or bonds if the Contract is awarded to the Bidder, in accordance with the Instructions-to-Bidders *(Document B)*.

1-11 CONTRACT: The written agreement (*Document I*) covering the performance of the work described in the Contract Documents including all signed Change Orders and Amendments thereto and all general and special provisions pertaining to the work or materials therefor.

1-12 AMENDMENT: The written agreement covering the performance of changed work from the original Contract Documents which meets one or more of the following criteria:

A. The total cost of the Contract, at the time of Contract award, is increased or decreased by more than twenty percent (20%);

B. Any one major Contract bid item, exclusive of the Silt Fence, Nitrogen, Phosphorus, and Potassium bid items, is increased or decreased by more than twenty percent (20%);

C. The Contract completion date is revised;

D. Contractor requests full payment when ninety-five percent (95%) or more of the total Contract (as modified by signed Amendments and Change Orders) has been completed and approved for final acceptance by Division and the remaining Contract work cannot proceed (due to conditions beyond the control of Contractor) for a period of more than sixty (60) days;

E. Work outside the original scope of the Contract Documents is added;

F. Both parties agree an Amendment is necessary to address material changes to the original scope of the Contract.

For criteria "B." above, a major item is defined as any bid item, with the exception of those listed exceptions or as designated in the Special Conditions as exceptions, for which Contractor's unit price contained in the Proposal and Schedule of Prices (*Document C*) amounts to ten percent (10%) or more of the cost of the original Contract award.

Only Amendments duly signed and executed by both Contractor and Division, with written consent of the Surety, constitute authorized modifications to the Contract.

1-13 CHANGE ORDER: A written order to Contractor, signed by Division, ordering a change which in the work originally shown by the Contract Documents, which has been found necessary by the Division. Only Change Orders duly signed and executed by Division constitute authorized modifications of the Contract.

1-14 CONTRACTOR: The individual, firm, partnership or corporation, and any heirs, executors, administrators, successors or assigns, or the lawful agent of any such individual, firm, partnership, or corporation, or the surety under the contract bond, constituting one of the principals to the Contract and undertaking to perform the work herein specified. Where any pronoun is used as referring to the word "Contractor" it shall mean Contractor as defined above.

1-15 SUBCONTRACTOR: Any person, firm, partnership or corporation who under a direct contract with Contractor acts for or on behalf of Contractor in executing any part of the Contract, but not including one who merely furnishes material.

1-16 PERFORMANCE BOND: The approved form of security furnished by Contractor and Contractor's surety, as required in the Contract Documents *(see Document J)*, which shall be conditioned upon Contractor's and Contractor's Surety promise to faithfully perform all provisions of the Contract, and complete the work in accordance with the Contract Documents, including making full payment for labor and materials used in the work.

1-17 SURETY: The person, firm or corporation who executes Contractor's Performance Bond.

1-18 WRITTEN NOTICE: Written notice shall be considered served when delivered in person or sent by registered mail to the individual, firm, partnership or corporation, or to the last known business address of such individual, firm, partnership, or corporation known to the person who serves the notice. It shall be the duty of each party to advise the other parties to the Contract of any change in business address prior to completion of the Contract.

1-19 GOVERNMENTAL AGENCY: Any governmental unit having jurisdiction.

1-20 ACT OF GOD: Means an earthquake, flood, cyclone or other cataclysmic phenomenon of nature. Rain, wind, flood or any other natural phenomenon of normal intensity for the locality shall not be construed as an Act of God.

1-21 DAYS: Unless otherwise designated, days as used in the Contract Documents shall be understood to mean calendar days.

1-22 WORKING DAYS: Any day weather conditions or other conditions allow Contractor to pursue any major item of work, excluding Sundays and holidays.

1-23 TIME OF COMPLETION: Time of completion of all work involved in this project shall be as specified in the Document C. See also Paragraph 3-24.

1-24 ALTERNATES: Alternates are defined as alternate products, materials, equipment, installations or systems for the work, which may, at Division's option and under terms established by the Contract Documents, be selected and recorded in the Contract to either supplement or displace corresponding basic requirements of the Plans and Construction Specifications. Alternates may or may not substantially change the scope and general character of the work, and should not be confused with "allowances", "unit prices", "change orders", "substitutions", and other similar provisions.

1-25 COMMON TERMS: Certain terms are used in the Contract Documents and are defined generally in this Section. Definitions in this Section are not necessarily either complete or exclusive, but are general in nature and intended to add clarification where more explicit definitions are not stated in the Construction Specifications.

A. ***Indicated:*** The term "indicated" is a cross-reference to details, notes, or schedules on the Plans; to other paragraphs or schedules in the Construction Specifications; and to similar requirements in the Contract Documents. Where terms such as "shown", "noted", "scheduled", and "specified" are used in lieu of "indicated", it is the purpose of helping the reader locate cross-reference, and no limitation of location is intended except as specifically noted.

B. ***Directed, Requested, etc.:*** Where not otherwise further defined, terms such as "directed", "requested", "authorized", "selected", "approved", "required", "accepted", and "permitted" mean "directed by the Division or Engineer", etc. However, no such implied meaning shall be interpreted to extend Division's or Engineer's responsibility to Contractor's responsibility for construction supervision, safety, or means and methods of construction.

C. ***Approve:*** Where used in conjunction with Division's or Engineer's response to submittals, requests, applications, inquiries, reports and claims by Contractor, the meaning of the term "approved" will be held to limitations of Division's or Engineer's responsibilities and duties as specified in General and Special Conditions. In no event shall "approval" by Division or Engineer be interpreted as releasing Contractor from responsibilities to fulfill requirements of the Contract Documents.

D. ***Furnish:*** Except as otherwise or further defined, the term "furnish" shall mean to supply and deliver to project site, ready for unloading, unpacking, assembly, installation, etc., as applicable in each instance.

E. ***Install:*** Except as otherwise or further defined in greater detail, the term "install" is used to describe operations at project site including unloading, unpacking, assembly, erection, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning and similar operations, as applicable in each instance.

F. ***Provide:*** Except as otherwise or further defined in greater detail, the term "provide" means to furnish and install, complete and ready for intended use, as applicable in each instance.

G. ***Installer:*** The entity (person or firm) engaged by Contractor or its subcontractor or sub-subcontractor for the performance of a particular unit of work at the project site, including installation, erection, application and similar required operations. Installers shall be experts in operations in which they are engaged to perform.

H. ***Testing Laboratory:*** An independent entity engaged to perform specific inspections or tests of the work, either at project site or elsewhere, and to report and (if required) interpret results of those inspections or tests.

1-26 ABBREVIATIONS: The following abbreviations as referenced in the Contract Documents are defined to mean the associations noted below:

AASHTO	American Association of State Highway & Transportation Officials
AIA	American Institute of Architects
ACI	American Concrete Institute
ANSI	American National Standards Institute
ASTM	American Society for Testing and Materials
IDOT	Iowa Department of Transportation
IDNR	Iowa Department of Natural Resources
OSHA	U.S. Department of Labor - Occupational Safety and Health Administration
OSMRE	U.S. Office of Surface Mining Reclamation and Enforcement

SECTION 2 - PLANS, SPECIFICATIONS AND RELATED DATA

2-01 INTENT OF PLANS AND SPECIFICATIONS: The intent of the Contract Documents is that Contractor furnish all supervision, labor, materials, equipment, and transportation necessary for proper execution of the work unless otherwise specifically noted. Contractor shall complete all work shown on the Plans and described in the Contract Documents and all incidental work considered necessary to complete the project in an acceptable manner, or to fully complete the work or improvement, ready for use, occupancy and operation by Division.

Any minor work not specifically mentioned in the Contract Documents or shown on the Plans, but reasonably inferable as necessary for the proper completion of the work, shall be considered as being a part of and included in the Contract and shall be executed in a proper manner. Contractor shall not be entitled to extra or additional compensation for such work.

It is further the intention of the Contract Documents to set forth requirements of performance, type of equipment and structures, and standards of materials and construction, to require new material and equipment unless otherwise indicated, and to require complete performance of the work without specific reference to any minor component part. It is not intended, however, that materials or work not covered by or properly inferable from any heading, branch, class or trade of the Contract Documents be supplied unless expressly so noted. Materials or work described in words, which as applied have a well-known technical or trade meaning, shall be held to refer to such recognized standards.

Whenever any article, material, or equipment is defined in the Contract Documents by describing a proprietary product or by using the name of a manufacturer or vendor, the term "or equal," if not inserted shall be implied. The specific article, material, or equipment mentioned shall be understood as indicating the type, function, minimum standard of design, efficiency, and quality desired and shall not be construed in such manner as to exclude manufacturers' products of comparable quality as approved by Division.

Reference to standard specifications of any technical society, organization, or association, or to codes of local or state authorities, shall mean the latest standard, code, specification or tentative specification adopted and published at the date of taking bids, unless otherwise specifically provided. Applicable codes and standards referred to in the Contract Documents shall establish minimum requirements for equipment, materials, and construction, and shall be superseded by more stringent requirements of Plans and Construction Specifications when and where they occur. Any conflicts between the Plans and Construction Specifications, and applicable codes and standards, shall be referred to Engineer for resolution.

Where reference is made in the Construction Specifications to "IDOT" or "IDOT Standard Specifications", such reference shall mean the latest edition and revisions of "STANDARD SPECIFICATIONS for Iowa Department of Transportation." Where such references are made, the referenced section, paragraph, sub-paragraph, etc., shall govern as though repeated verbatim herein. However, the reference herein to a specific IDOT Standard Specification Section, paragraph, sub-paragraph or material specification, shall not imply or infer that any other requirements of the IDOT Standard Specifications apply to this Project.

Except as otherwise indicated, graphic symbols used on the Plans are those symbols recognized in the construction industry for the indicated purposes. A legend of project specific symbols and other graphic symbols is shown on the Plans.

2-02 CONFLICT: In the event of conflict between the Plans, Construction Specifications, or other Contract Documents, the level of precedence shall be as provided below. In the event of conflict within a Contract Document, the most stringent provision of that Contract Document is intended and shall control.

A. Supplemental Specifications over Construction Specifications.

B. Indicated dimensions over scaled dimensions.

C. Large scale details over small scale details, Plans, and elevations.

D. Plans over Construction Specifications.

E. Addenda over Construction Specifications and Plans.

F. Approved Change Orders and Contract Amendments over prior Contract Documents to the extent of inconsistency with other Contract Documents.

2-03 DISCREPANCIES IN PLANS: Any discrepancies found between individual Contract Documents and site conditions, or any errors, omissions or ambiguities in the Contract Documents shall be immediately reported to Engineer and Division.

Questions as to meaning of the Contract Documents shall be interpreted by Division in consultation with Engineer. Division's decision shall be final and binding on all parties concerned. See also Paragraph 3-01. Division shall provide Contractor with such information as may be required to show revised or additional details of construction. Contractor shall not be allowed to take advantage of any errors or omissions in the Contract Documents. Division shall provide full information when errors or omissions are discovered. Any work done by Contractor, after Contractor's discovery of such discrepancies, errors, or omissions and prior to a decision by Division, shall be at Contractor's risk.

2-04 ADEQUACY OF PLANS AND SPECIFICATIONS: Responsibility for adequacy of the design and sufficiency of the Contract Documents shall be borne by Division. The complete requirements of the work to be performed under the Contract shall be set forth in the Contract Documents supplied by Division.

2-05 PLANS AND SPECIFICATIONS AT JOB SITE: One complete record set of all Contract Documents shall be maintained by Contractor and shall be available to Division and Engineer upon request. Contractor shall maintain one set of the Plans and shop drawings in a clean, undamaged condition that includes mark-up of actual installation which vary from the work as originally shown. Record documents shall not be used for construction purposes and shall be protected from deterioration. Contractor shall provide access to record documents for Division's and Engineer's reference during all working hours.

Specific requirements for record documents are indicated below. Other requirements are indicated in the Construction Specifications.

A. **RECORD PLAN**

1. Mark whichever drawing is most capable of showing "field" condition fully and accurately; however, where shop drawings are used for mark-up, record a cross-reference at corresponding location on working drawings.

2. Mark up new information which is recognized to be of importance to Division, but was for some reason not shown on either contract drawings or shop drawings.

3. Give particular attention to concealed work which would be difficult to measure and record at a later date.

4. Note related change-order numbers where applicable.

B. **RECORD CONSTRUCTION SPECIFICATIONS**

1. Give particular attention to substitutions, selection of options, and similar information on work where it is concealed or cannot otherwise be readily discerned at a later date by direct observation.

2. Note related record drawing information and product data, where applicable.

C. **RECORD SURVEY NOTES**

Maintain a minimum of two copies of all hand written construction survey notes continuously throughout project completion. One copy of all such notes shall be furnished to Engineer in a timely manner as field construction surveys are completed by Contractor-retained survey personnel. A copy of these notes shall be preserved by Contractor and submitted to Division along with other record document submittals prior to final project acceptance. Electronic survey information shall be sent to Engineer and Division via e-mail as work is completed.

After award of the Contract, Division shall furnish Contractor up to six (6) sets of Plans and Specifications. The Plans will be provided on 11” x 17” sheets with one full-size set of plans provided upon request Additional copies, if requested by Contractor, will be furnished at Engineer's reproduction and delivery cost. The full-size set of plans may be either 24 x 36 inches or 22 x 34 inches, at Engineer’s discretion.

2-06 OWNERSHIP OF PLANS AND SPECIFICATIONS: All original or duplicated Plans and Construction Specifications and other data prepared by Division shall remain the property of Division.

2-07 DIMENSIONS: Figured dimensions on the Plans shall be used in preference to scaling the drawings. Where the work of Contractor is affected by finish dimensions or manufacturer's equipment, these shall be determined by Contractor at the site, and Contractor shall assume responsibility therefor.

2-08 MODELS: All models prepared for this work in accordance with requirements of the Contract Documents shall become the property of Division upon completion of the work.

2-09 SCHEDULE OF ALTERNATES: This Section summarizes the alternate bids required to be submitted with the Bidder's Proposal and Schedule of Prices *(Document C)* and/or a description of alternate work consisting of eliminating or reducing certain bid items using the bid unit prices. Work covered by the alternate bid shall be as specified in the Construction Specifications unless otherwise specified in the Special Conditions. Each alternate bid shall state the sum to be added or deducted from the base bid in the event the alternate is accepted. Alternate bids shall be submitted by completing the alternate sections in the Proposal and Schedule of Prices *(Document C)*.

Prior to execution of the Contract, Division shall prepare and distribute to Contractor and Engineer a notification of the status of each alternate, including which alternates have been accepted or rejected. Division in consultation with Engineer will provide a full description of negotiated modifications to alternates, if any.

SECTION 3 - ENGINEER-DIVISION-CONTRACTOR RELATIONS

3-01 ENGINEER'S RESPONSIBILITY AND AUTHORITY: Engineer and the designated Construction Observer shall observe the work on behalf of Division, and shall provide general assistance to Division and Contractor during construction insofar as proper interpretation of the requirements of the Contract Documents is concerned. Engineer shall also conduct all project meetings which shall be held to enable orderly review of the progress of the work and to provide for systematic discussions of problems.

Division, in consultation with Engineer, shall decide any and all questions which may arise as to the quality and acceptability of materials furnished, work performed, interpretation of the Contract Documents, and all questions as to the acceptable fulfillment of the Contract on the part of Contractor. See also Paragraph 2-03.

Division and Engineer shall not be responsible for the acts or omissions of Contractor's superintendent or other employees.

A. All materials used, and all work completed by Contractor shall be subject at all times to observation, test, and approval of Division, in consultation with Engineer. Contractor shall furnish such samples of materials for examination and tests, as may be requested by Division or Engineer, and shall furnish any information required concerning the nature or source of any materials or equipment which Contractor proposes to use.

B. The construction, fabrication, and manufacture of any equipment or materials specified herein may be inspected by Division or Engineer at the plant or factory, and Division or Engineer shall have free access for purposes of making such inspections.

C. Any materials, equipment, or work which does not satisfactorily meet the requirements of the Contract Documents may be condemned by Division or Engineer by giving written notice to Contractor. All condemned materials, equipment, or work shall be promptly removed and replaced.

D. Any defective material, equipment, or work may be rejected by Division or Engineer at any time prior to final acceptance by Division even though said defective items may have been previously overlooked.

3-02 - PROJECT MEETINGS: Except as provided below for the Preconstruction Meeting, Progress Meetings shall be held monthly. Additional special project meetings may be held as necessary to address specific problems, issues or questions which cannot be postponed until the next regularly scheduled Progress Meeting. A Progress Meeting shall be held prior to Division's processing of any payment request from Contractor. Engineer shall coordinate with Division and Contractor to establish acceptable schedules for the Preconstruction Meeting, all Progress Meetings, and any necessary special project meetings. All project meetings shall be held in Contractor's field office unless a different location is identified and agreed upon in advance by the parties.

To the maximum extent practicable, Contractor and Division shall advise Engineer at least twenty-four (24) hours in advance of project meetings regarding items to be added to the agenda. The minimum project meeting and preconstruction meeting agenda requirements are detailed below. The Contractor shall also meet the attendance requirements outlined below.

A. **MINIMUM AGENDA**

1. Review, revise as necessary, and approve notes of previous meeting.
2. Review progress of the work since last meeting, including status of submittals for approval.
3. Identify problems which impede planned progress.
4. Develop corrective measures and procedures to regain planned schedule.
5. Identify anticipated quantity differences in any pay item, e.g. shortages, overruns, etc.
6. Identify and address any landowner concerns made known to Division, Engineer, or Contractor.
7. Complete other current business.
8. Review monthly pay estimate.

B. **ATTENDANCE**

1. To the maximum extent practicable, the same person or persons shall be assigned to represent Contractor at the project meetings held throughout progress of the work. Contractor's Superintendent shall be present at all meetings. In the Superintendent's absence, Contractor shall provide a representative with the required authority to commit Contractor to any decisions made at the meeting.

2. Subcontractors, material suppliers, and others may be invited to attend those project meetings in which their aspect of the work is involved.

C. **MEETING NOTES**

1. Notes of all meetings shall be compiled and distributed by Engineer who shall provide an electronic copy by e-mail to every party in attendance. Recipients of copies may make and distribute other copies as necessary.

2. Unless the notes provided by Engineer are clarified prior to or during the next scheduled meeting, they shall be accepted as properly stating the activities and decisions of the meeting. Persons wishing to amend or clarify published notes shall reproduce and distribute copies of the supplemental information to all indicated recipients of the particular set of meeting notes. Clarifications and amendments to meeting notes shall be settled as priority portion of "old business" at the next regularly scheduled meeting.

D. **PRECONSTRUCTION MEETING**

A Preconstruction Meeting shall be held within ten (10) days of Division issuance of the Notice-to-Proceed, and prior to commencement of work at the site. The time and place shall be mutually agreed upon by Division, Engineer, and Contractor. Contractor shall assure the attendance of an authorized representative of Contractor, Contractor's Superintendent for the project, major subcontractors, and if deemed advisable, material suppliers whose performance is considered critical to the success of the project. Division, Engineer, and Construction Observer shall also be in attendance. Engineer shall be responsible for advising other interested parties (e.g. landowners and governmental agencies) and requesting their attendance when their presence is deemed advisable by the Engineer or Division.

The following items, at a minimum, shall be discussed at the Preconstruction Conference:

1. Organizational arrangement of Contractor's forces and personnel, and those of subcontractors, materials suppliers, and Engineer;

2. Channels and procedures for communication;

3. Construction schedule, including sequence of critical work;

4. Contract Documents, including SWPPP Contractor Certification Statements, Acceptance of Original Ground Lines Document, along with distribution of required copies of original documents and revisions;

5. SWPPP booklet prepared by Engineer to be kept and maintained by Contractor, along with storage location and access by others,;

6. Processing of Shop Drawings, submittals and other data submitted to Engineer for review;

7. Processing of bulletins, field decisions, Change Orders, Contract Amendments, and Applications for Payment;

8. Rules and regulations governing performance of the work;

9. Temporary construction facilities and controls;

10. Procedures for safety and first aid, security, quality control, housekeeping, and related matters.

3-03 SUSPENSION OF WORK BY DIVISION OR ENGINEER: When, in the judgment of Division or Engineer, unfavorable weather or any other condition makes it impractical to secure first-class results in accordance with the Contract Documents, or Contractor fails to carry out the provisions of the Contract Documents or supply materials meeting the requirements of the Contract Documents, Division or Engineer may issue to Contractor a written order to suspend work on all or any part of the work. When conditions are again favorable for prosecution of the work, Division or Engineer shall issue to Contractor a written order to resume the suspended work. Orders to suspend work shall not be written for intermittent shutdowns due to weather condition unless the suspension of work is for an extended period of time. Contractor shall take every precaution to prevent any damage or unreasonable deterioration of the work during the time it is closed down.

Suspension of the work by Engineer shall not furnish any grounds for claims by Contractor for damages or extra compensation. The period of such suspension may be considered in determining the revised date for completion as hereinafter provided. Contractor shall not suspend work under the Contract, except as permitted in Paragraph 3-05, without the written order of Division or Engineer as stated in the preceding paragraph. Contractor shall be required to work a sufficient number of hours per day and days per week in order to complete the project on or before the completion date set

forth in the Contract. Questions as to the desirability of discontinuing any portion of the work by reason of unfavorable weather conditions shall be determined by Division or Engineer.

3-04 SUSPENSION OF WORK BY DIVISION: Division may at any time suspend the work, or any part thereof, by giving ten (10) days' notice to Contractor in writing. The work shall be resumed by Contractor within ten (10) days after the date fixed in the written notice from Division to Contractor to do so.

If the work, or any part thereof, shall be stopped by the notice in writing aforesaid, and if Division does not give notice in writing to Contractor to resume work at a date within a year of the date fixed in the written notice to suspend, then Contractor may abandon that portion of the work so suspended, and Contractor shall be entitled to the estimates and payments for all work done on the portions so abandoned, if any. See also Paragraph 7-09.

If suspension of all or part of the work causes additional expense not due to the fault or negligence of Contractor, Division shall reimburse Contractor for the additional expense incurred due to suspension of the work. Claims for such compensation, with complete substantiating records, shall be filed with Division within ten (10) days after the date of order to resume work in order to receive consideration. This paragraph shall not be construed as entitling Contractor to compensation for delays due to inclement weather, failure to furnish additional surety or sureties specified herein, suspension made at the request of Contractor, or for any other delay provided for in the Contract Documents.

3-05 SUSPENSION OF WORK BY CONTRACTOR: Contractor may suspend work upon a ten (10) day written notice to Division and Engineer, for any of the following reasons:

1. If an order of any court or other public authority caused the work to be stopped or suspended for a period of ninety (90) days through no act or fault of Contractor or Contractor's employees.

2. If Engineer fails to act upon any Request for Payment, in the manner set forth in Paragraph 7-05, within ten (10) days after it is presented in accordance with the General Conditions.

3. If Division fails to act upon any Request for Payment, in the manner set forth in Paragraph 7-06, within thirty (30) days after the date on which Division receives Engineer approved Request for Payment (within sixty (60) days for the initial Request for Payment).

4. If Division fails to pay Contractor any sum within thirty (30) days after its award by arbitrators.

3-06 ARBITRATION: In any case where Contractor deems that extra compensation is due for work or material not clearly covered in the Contract Documents and not ordered by Division as extra work added to the Contract by Change Order or by Amendment to the Contract, Contractor shall notify Division and Engineer in writing to make claim for such extra compensation before work begins on which the claim is based.

In all cases, if such notification is not given, or if after such notification is given, Engineer and Division are not afforded facilities for keeping strict account of actual costs as defined for force account construction, Contractor agrees to waive any claim for extra compensation for such work. Such notice by Contractor, and the fact that Engineer and Division have kept account of the cost as aforesaid, shall not be construed as establishing the validity of a claim. The claim, when filed, shall be in writing and in sufficient detail to permit auditing and an intelligent evaluation by Engineer and Division. Claims shall be supported by all available documentary evidence and shall be verified by affidavit of Contractor or other persons having knowledge of the facts. If Contractor desires to present a claim in person, the claim shall be accompanied by a written request for such opportunity. Where Contractor requests an opportunity to present a claim in person, Division, within thirty (30) days of the filing of the claim, shall fix a time and place for a meeting between Contractor and Division. Division shall, within a reasonable time after the filing of a claim or meeting above thereon, whichever occurs later, rule upon the validity of the claim and notify Contractor, in writing, of the ruling together with the reasons therefor. If Division determines the claim is valid, in whole or in part, it shall be allowed and paid to the extent so found.

If a claim by Contractor is disallowed in whole or in part, Contractor may, within ten (10) days from the date of receipt of ruling by Division, make written request to Division that the claim or claims be submitted to a board of arbitration. Any demand for arbitration shall be made in writing and delivered to Division and any adverse party, either by personal delivery or by registered mail addressed to the last known address of party, but in no event after final payment has been made and accepted, subject, however, to any express stipulation to the contrary in the Contract Documents. In the event Division fails to render a decision within thirty (30) days of receipt of the request for arbitration, a demand for arbitration may be made as if Division's decision had been rendered against the party demanding arbitration.

Contractor shall not delay the work because arbitration proceedings are pending unless Contractor receives written permission from Division to do so. In no event shall such delays extend beyond the time necessary for the arbitrators to determine whether the work should continue or be suspended pending decision by the arbitrators of such a dispute.

The arbitrators selected shall be persons experienced and familiar with construction or engineering practices in the general type of work involved in the Contract, but shall not have been a regular employee or an individual retained by either party at the time involved in the controversy, or at the time of arbitration. No one shall be qualified to act as an arbitrator who has, directly or indirectly, any financial interest in the Contract or who has any business or family relationship with Division, Contractor, or Engineer.

Unless otherwise provided by controlling statutes, the parties may agree upon one arbitrator; otherwise there shall be three, one named in writing by each party to this Contract, and the third chosen by the two arbitrators. If the named arbitrators fail to select a third arbitrator within fifteen (15) days of the request for arbitration, then the third arbitrator shall be chosen by the presiding officer of the state or county bar association nearest the location of the work. If the party demanding arbitration fails to name an arbitrator within ten (10) days of demand, that party's right to arbitration shall lapse. If the other party fails to choose an arbitrator within the said ten (10) days, then the presiding officer of the state or bar association nearest the location of the work shall appoint such arbitrator.

The arbitrator or the arbitrators shall make their own rules of procedure and shall have authority to examine records kept by Division and Contractor. If records requested by the arbitrators are not produced within ten (10) days of request, the arbitrators shall proceed without them as best they may. In making findings or awards, or both, the majority vote of the arbitrators shall govern. If there is one arbitrator, that arbitrator's decision shall be binding. Written copies of the findings or awards, or both, signed by the arbitrator or the arbitrators, shall be filed with Division or Contractor. A unanimous report or minority report may be filed. Such arbitration findings or awards, or both, shall be a condition precedent to any right of legal action, and wherever permitted by law, may be filed in court to carry them into effect. The arbitrator or arbitrators shall fix the cost of the proceedings, including a reasonable compensation to the arbitrator(s) and shall determine how the total cost shall be borne.

The arbitrator or arbitrators shall have jurisdiction to pass upon questions involving compensation to Contractor for work actually performed or materials furnished, and upon claims for extra compensation which have not been allowed by Division. Jurisdiction of the arbitrator or arbitrators shall not extend to determinations regarding quality of work, materials furnished, or an interpretation of the intent of the Contract Documents, except as regards matters of compensation. Jurisdiction of the arbitrator or arbitrators shall not extend to setting aside or modifying the terms or requirements of the Contract.

If acceptable to both parties to the Contract, the findings or awards, or both, of the arbitrator or arbitrators, may become a basis for final payment.

If the findings of the arbitrator or arbitrators are unacceptable to either party to the Contract, said findings may become the basis for further negotiation between the parties. If a solution agreeable to both parties has not been reached through the filing of a claim, through arbitration, or because arbitration has been denied, either party may resort to any and all other lawful and available means for resolving the claim.

To the extent the methods or procedures of this article are inconsistent or in conflict with any other applicable state or federal statute, the applicable state or federal statute shall control, it being the intent of the parties of this document to lay down a principle of action to be followed, leaving its local application to be adapted to the legal requirements of the jurisdiction having authority over the arbitration.

The invalidity of any provisions of this Paragraph 3-06 shall not invalidate the remaining provisions of this Paragraph.

Contractor shall not institute any court action against Division for the adjudication of any claim until said claim has been first presented to Division pursuant to this Paragraph, and either submitted to arbitration or a request for arbitration has been denied pursuant to Paragraph 3-06.

3-07 EXAMINATION OF COMPLETED WORK: At the request of Division or Engineer, Contractor at any time before acceptance of the work shall remove or uncover such portions of the finished work as may be directed. After examination, Contractor shall restore said portions of the work to the standard required by the Contract Documents. In the event work thus exposed or examined proves acceptable, the uncovering or removing, and the replacing of the covering or making good of the parts removed, shall be paid for as Extra Work in accordance with requirements of Paragraph 7-03. In the event work so exposed or examined proves unacceptable, the uncovering or removing, and the replacing of the covering or making good of the parts removed, shall be at Contractor's expense.

3-08 CONTRACTOR'S SUPERINTENDENCE: Contractor shall retain a qualified Superintendent to provide efficient supervision of the work covered by the Contract Documents, until its completion. The Superintendent shall have full authority to act on behalf of Contractor, and all directions given to the superintendent shall be considered given to Contractor.

3-09 CONTRACTOR'S EMPLOYEES: Incompetent, incorrigible, or otherwise objectionable employees shall be dismissed from the project by Contractor or Contractor's representative at the request of Division or Engineer, and such persons shall not be permitted to return to the project without the written consent of the objecting party.

A. Neither Contractor nor Subcontractors shall employ any person whose physical or mental condition is such that his or her employment could reasonably be expected to endanger said employee, Contractor, others employees, or any other person on the project.

B. Contractor ***shall not***:

1. Discharge from employment or refuse to hire any individual because of race, creed, color, sex, national origin, ancestry, religion, economic status, age, disabilities, experience or education, political opinions, or affiliations.

2. Discriminate against any individual in terms, conditions, or privileges of employment because of race, creed, color, sex, national origin, ancestry, religion, economic status, age, disabilities, experience or education, political opinions, or affiliations.

Contractor agrees to include clauses in any subcontracts entered into for work covered by the Contract Documents prohibiting the practices described in Paragraph 3-09 B.1. and B.2.

3-10 CONSTRUCTION OBSERVER: Construction Observers may be designated by Engineer or Division to assist in assuring that the work is performed in accordance with the Contract Documents.

Construction Observers shall have authority to condemn and reject defective work and materials, subject to the final decision of Division in consultation with Engineer. The Construction Observer shall not have any authority to suspend work, this right being solely reserved to Division or Engineer.

Construction Observers shall have no authority to permit deviation from the Contract Documents, and Contractor shall be liable for any deviation made without a written order from Division. Construction Observers shall not act as foremen, safety officers, or perform other duties for Contractor.

See also Paragraphs 3-04 and 3-05.

3-11 DIVISION LAND RIGHTS: Division shall be responsible for obtaining all necessary land rights, including rights-of-way for construction access as specified, with respect to lands upon which work under the Contract is to be performed. Any delay in obtaining land rights by Division shall be deemed proper cause for consideration of adjustment of the Contract amount and/or the time of completion.

3-12 CONTRACTOR LAND RIGHTS: Contractor shall confine equipment, materials, and operations, to those areas described in the Contract Documents. Any additional land rights Contractor deems necessary for temporary construction facilities or for storage of materials shall be provided by Contractor with no liability to Division.

3-13 ENTRY ON PROPERTY: Contractor shall not enter upon public or private property outside of the project limits and designated travel lanes for any purpose without first obtaining permission from the appropriate landowner or official, and shall be responsible for the preservation of all property along and adjacent to the street and/or right-of way, and shall use every precaution necessary to prevent damage thereto. Contractor shall take suitable precautions to prevent damage to pipes, conduits, and other underground structures, and shall take all reasonable steps to prevent damage and disturbance to monuments and property markers until an authorized agent has witnessed or otherwise referenced their location. Monuments and property markers shall not be removed until Division has been afforded the opportunity to independently observe and note the type and location of the monument or marker and to verify landowner's concurrence for removal.

3-14 REMOVAL OF CONSTRUCTION EQUIPMENT, TOOLS AND SUPPLIES: Upon termination of this Contract, and before final acceptance of the work by Division, Contractor shall remove from the project site all equipment, tools, supplies, excess materials, and wastes generated from the work. In the event Contractor fails to remove such items, Division or its representative shall have the right to remove them. See also Paragraph 7-10.

3-15 DIVISION'S RIGHT TO CORRECT DEFICIENCIES: In the event Contractor neglects to prosecute the work properly, or fails to perform any provision of this Contract, Division, after a ten (10) day written notice to Contractor, may without prejudice to any other remedy Contractor may have, make good such deficiencies and deduct the cost thereof from the payment then or thereafter due Contractor.

See also Paragraph 7-10.

3-16 DIVISION'S RIGHT TO TERMINATE CONTRACT AND COMPLETE THE WORK: Division may, without prejudice to any other right or remedy, and after giving Contractor a seven (7) day written notice, terminate the employment of Contractor and take possession of the premises and all equipment, and materials thereon and finish the work by whatever method deemed expedient in the event of any one or more of the following:

1. Contractor is adjudged bankrupt; or

2. Contractor makes a general assignment for the benefit of Contractor's creditors; or

3. A receiver is appointed on account of insolvency; or

4. Contractor persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials; or

5. Contractor fails to make prompt payment to subcontractors or for materials or labor; or

6. Contractor persistently disregards laws, ordinances, or instructions of Division or Engineer; or

7. Contractor is otherwise guilty of substantial violations of any provisions of the Contract.

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 cost of finishing the work, including compensation for additional material, administrative services, and engineering fees, such excess shall be paid to Contractor. If the costs exceed the unpaid balance, Contractor shall pay the difference to Division.

See also Paragraph 7-11.

3-17 CONTRACTOR'S RIGHT TO TERMINATE CONTRACT: Contractor may terminate this Contract upon ten (10) days' written notice to Division and Engineer, if an order of any court or other public authority causes the work to be stopped or suspended for a period of ninety (90) days through no act or fault of Contractor or Contractor's employees. See also Paragraph 7-13.

3-18 RIGHTS OF VARIOUS INTERESTS: Wherever work being done by Division or its representatives or by other contractors is contiguous to work covered by this Contract, the respective rights of the various interests involved shall be established by Division so as to secure the completion of the various portions of the work.

3-19 SEPARATE CONTRACTS: Division may let other contracts in connection with the work of Contractor. Contractor shall cooperate with other contractors with regard to storage of materials and execution of their work. Contractor shall report to Engineer and Division any irregularities which Contractor may detect which will not permit completion of the work in a satisfactory manner. Contractor shall not be responsible for defects which develop due to the work of others after the work is completed. Contractor shall report to Engineer and Division immediately any difference between completed work by others and the Contract Documents.

3-20 SUBCONTRACTS: At the time specified by the Contract Documents or when requested by Division, Contractor shall submit in writing to Division for approval the names of the Subcontractors proposed for the work. Subcontractors may not be changed or substituted without Division approval. Contractor shall be responsible to Division for the acts and omissions of its Subcontractors, and their direct and indirect employees, to the same extent as Contractor is responsible for acts and omissions of its employees. The Contract Documents shall not be construed as creating any contractual relation between any Subcontractor and Division.

Contractor agrees to bind every Subcontractor to the terms of the Contract Documents.

Contractor shall not assign, sublet, or transfer the whole or any part of the work herein specified without the written consent of Division. No such assignment, sublet, or transfer shall in any way relieve Contractor from any of the responsibilities assumed herein.

3-21 WORK DURING AN EMERGENCY: Contractor shall perform any work, and furnish and install any materials and equipment necessary, during an emergency endangering life or property. In all cases, Contractor shall notify Division of the emergency as soon as practicable, but shall not wait for instructions before proceeding to properly protect both life and property. In cases where Contractor cannot or does not meet the emergency, as determined by Division, Division may take such action as it deems necessary to address the emergency.

3-22 ORAL AGREEMENTS: No oral order, objection, claim or notice by any party to the others shall affect or modify any of the terms or obligations contained in any of the Contract Documents, and none of the provisions of the Contract Documents shall be held to be waived or modified by reason of any act whatsoever, other than waiver or modification agreed to in writing, signed by the parties to be bound.

3-23 CONSTRUCTION SCHEDULE: After being awarded the Contract, Contractor shall immediately prepare and submit to Division for acceptance a construction progress schedule which shall provide for completion of the project within the time specified. Adequate equipment and forces shall be made available by Contractor to start work within fourteen (14) days following issuance of the Notice-to-Proceed and to carry out the schedule to completion of the Contract within the time specified herein. The proposed construction progress schedule shall be submitted to Division within a period not to exceed ten (10) days from receipt of the Notice-to-Proceed. No pay requests by Contractor shall be processed until the proposed construction progress schedule has been submitted to, and approved by Division.

Contractor shall coordinate all work to be accomplished in completing this project, including preparation and updating of completion schedules, coordination of work of all Subcontractors, and complete control of site utilization, from the beginning of construction activity through the warranty period following final acceptance of the Project by Division. Contractor shall keep Division and Engineer continually advised regarding the scheduling of construction activities.

A. **CONSTRUCTION PROGRESS SCHEDULE REQUIREMENTS:** Contractor shall include, at a minimum, the following items in each construction progress schedule.

1. The complete sequence of construction by major activity, identifying work of separate stages, and other logically grouped activities.

2. The time of start and completion of each work component.

3. All critical dates, including beginning and ending seeding period dates, and required waiting periods, (e.g. lime-mulch reaction time period).

4. Dates for all submittals required in the Construction Specifications.

5. All projected product delivery dates.

B. **SUBMITTAL OF CONSTRUCTION PROGRESS SCHEDULE:** Contractor shall submit the initial construction progress schedule within ten (10) days of the receipt of the Notice-to-Proceed. Contractor shall submit updated construction progress schedules at each monthly Progress Meeting and with all requests for Progress Payment. This requirement does not apply during approved shut down periods.

3-24 DELAYS AND EXTENSION OF CONTRACT TIME: Delays caused by injunction or legal actions, "Acts of God" as determined herein, or other causes beyond the control of Contractor, may entitle Contractor to an extension of time within which to complete the work.

All applications for extension of time shall be submitted to Division by Contractor within ten (10) days of the occurrence of such delay, and shall state reasons for the request.

No extension of time shall be deemed valid unless included in a duly signed and executed Contract or Amendment.

3-25 SUBMITTALS: Contractor shall deliver all submittals to Engineer prior to performing work under Construction Specifications requiring submittals. A minimum of three (3) copies of all submittals shall be provided: one (1) copy to be retained by Division, one (1) copy to be retained by the Construction Observer, and one (1) copy to be retained by Engineer. Contractor shall further provide Engineer with such number of additional copies as Contractor desires returned showing "NO EXCEPTIONS" once such review is achieved.

In cases where Engineer and Division have reviewed the initial submittal and deemed it unacceptable, only one (1) returned copy shall be returned to Contractor marked with the required corrections. Submittals shall be reviewed and resubmitted as required, identifying any changes made since previous submittals, until "NO EXCEPTIONS" review is achieved. If requested, a submittal shall confirm markings against job site conditions and dimensions on resubmittal.

A. **GENERAL REQUIREMENTS:** Contractor shall meet the following requirements for all submittals:

1. Consecutively number and date all submittals;

2. Label with the Project name;

3. Include Contractor's name;

4. Include all pertinent subcontractor, and major suppliers names;

5. Identify pertinent Plan Sheet and detail numbers;

6. Include Construction Specification Section number, as appropriate;

7. Include Contractor's stamp, initialed or signed, indicating review.

B. **SPECIAL REQUIREMENTS:** Contractor shall also meet the following submittal specific requirements as described below. In the case of multiple drawings or items, submittals shall be bound into complete sets.

1. Shop and Installation Drawings: Contractor shall include the following items in all submittals of shop and installation drawings:

a. Any specially prepared technical data for this project;

b. Any drawings, diagrams, data sheets, schedules, calculations, measurements, and similar information not in standard printed form for general application to several projects;

c. Clear identification of each drawing.

2. Product Data: Contractor shall include the following items in all product data submittals:

a. All standard printed information on materials used in the work;

b. All supplemental manufacturer's standard data which provides information unique to the work.

3. Samples: Contractor shall submit all required samples with such promptness as to ensure no delay in work. All samples shall:

   a. Be checked and approved by Contractor.

   b. Be clearly identified as to material, and manufacturer.

   c. Include any pertinent catalog number(s).

   d. Include intended use in the work.

   e. Include complete identification on each sample.

C. **CERTIFICATES:** Contractor shall submit all certificates of compliance with the requirements of the Contract Documents as referenced in Construction Specifications. All certificates shall be sworn to by Contractor, and, where applicable, by the manufacturer, supplier, subcontractor, acceptable laboratory or testing authority, etc.

D. **SUBMITTAL APPROVAL:** At the time of each submission, Contractor shall notify Division and Engineer concerning any deviations in the submittal(s) from the requirements of the Contract Documents.

Engineer and Division shall, with reasonable promptness, review and approve all submittals for conformance with the design concept of the Project, and compliance with the information given in the Contract Documents. Approval of separate items, as such, shall not constitute approval of the assembly in which such items function. Contractor shall make any and all corrections required by Engineer and Division. Contractor shall return the required number of corrected copies of shop drawings to Engineer and resubmit new samples, as necessary, until approved by Engineer and Division. Contractor shall direct specific attention, in writing or on resubmitted shop drawings, to revisions other than the corrections called for by Engineer or Division on previous submissions. Contractor's submittal of any shop drawing or samples shall constitute a representation to Division and Engineer that Contractor has determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data, with the requirements of the work and the Contract Documents.

Where a shop drawing or sample submission is required by Construction Specifications, no related work shall be commenced until the submission has been approved by Engineer and Division. A copy of each approved shop drawing and each approved sample shall be kept in good order by Contractor at the site and shall be available to Engineer's and Division.

Engineer and Division's approval of shop drawings or samples shall not relieve Contractor from responsibility for errors or omissions in the shop drawings or any deviations from requirements of the Contract Documents unless Contractor has in writing notified Engineer and Division of such deviation at the time of submission and received Engineer and Division's approval to the specific deviation.

Copies of reviewed submittals shall be distributed, bearing review stamp indicating "NO EXCEPTIONS", to concerned parties. One copy shall be retained by Contractor as a project record document for inclusion in the closeout submittals.

SECTION 4 - SCOPE OF WORK

4-01 ADDITIONAL INSTRUCTIONS: If any Contract Documents are not sufficiently clear to permit Contractor to proceed with the work, Division or Engineer shall, either upon their own initiative or upon the request of Contractor, furnish additional written instructions, together with additional drawings as may be necessary. Requests by Contractor must be made sufficiently far in advance to permit preparation of instructions and drawings by Engineer before commencement of the work.

For purposes of avoiding delays in the preparation of any additional instructions and drawings, Engineer and Contractor shall jointly prepare a schedule showing the time for commencement of the work to be included in them and the time by which Contractor shall furnish the shop drawings necessary for their preparation. No work shall be performed by Contractor without proper drawings or instructions. Contractor shall at Contractor's expense, replace any wrongly executed work.

4-02 INCREASED OR DECREASED QUANTITIES OF BID WORK: Division reserves the right to make such alterations in bid item quantities included in the Proposal and Schedule of Prices (*Document C*) as authorized by law and deemed necessary by Division. Such alterations shall be made by Change Order or Amendment approved by Division, and shall not be deemed a waiver of any conditions of the Contract Documents or an invalidation of any of the provisions thereof; provided, however, that the execution of an Amendment to the Contract acceptable to both parties of the Contract shall be necessary before any alteration is made which meets the definition in Paragraph 1-12 above.

When an alteration requires the execution of a Contract Amendment, the Amendment shall be fully executed before any work on the alteration is started.

See Paragraph 7-03 for method of payment.

4-03 EXTRA WORK: Any work outside the scope of the original bid item work made necessary by alteration of or additions to the Contract Documents, or by other reasons for which no price is provided in the Contract, shall be performed by Contractor as directed by Division in consultation with Engineer, and Contractor shall be compensated therefor as provided under Paragraph 7-03.

Extra work which by reason of its character or extent is covered by a Contract Amendment between Division and Contractor, shall have the written consent of the surety on the bond, but extra work and change orders not covered by an amendment to the Contract shall not require the consent of the surety.

See also Paragraph 4-02.

4-04 CHANGED CONDITIONS: In the event Contractor encounters subsurface or latent physical conditions at the site differing materially from those indicated in the Contract, or unknown physical conditions 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, which changed or unusual conditions will be considered by Contractor as the basis for a claim for extra compensation, Contractor shall promptly, and before any such conditions are disturbed, notify Division and Engineer, in writing, of the alleged conditions, including an expected cost and/or time impact to the Contract.

Contractor shall be deemed to have waived any claim or claims for extra compensation in any manner arising out of the changed or unusual conditions in the event Contractor fails to provide Division written notice prior to disturbing the conditions.

Division shall instruct Engineer to investigate and issue decisions on claims within a reasonable time. Engineer's decision, in consultation with Division, shall cover any changes in time, money, or both.

If Division determines conditions justify a claim for additional compensation, Division shall provide for additional payment for the particular phase of work in question by negotiated agreement with Contractor upon existing and/or new unit Contract prices, by cost plus an agreed percentage, or by any other equitable arrangement mutually agreed upon by Division and Contractor, and consented to in writing by the bond Surety. In any event, Contractor shall not be relieved, unless permitted by Division, from the obligation of resuming construction operations pending decision as to the validity of a claim, or pending the execution of a negotiated agreement to cover additional costs, if the claim is recognized under the provisions of this Paragraph of the General Conditions.

4-05 SALVAGE: Unless otherwise indicated in the Contract Documents, all castings, pipe and other material taken from the project site, except fencing, shall be the property of Contractor.

4-06 CLEANUP: Contractor shall at Contractor's expense remove and properly dispose of refuse and unused materials of any kind resulting from the work. Upon failure to do so within seventy-two (72) hours after request by Division or Engineer, the work may be done by Division and the cost thereof charged to Contractor and deducted from the final estimate.

See also Paragraph 7-10.

SECTION 5 - MATERIALS AND WORKMANSHIP

5-01 QUALITY OF EQUIPMENT AND MATERIALS: Contractor shall maintain quality control over subcontractors, suppliers, manufacturers, products, services, site conditions, and workmanship to produce first class work. Contractor shall comply with industry standards, except when the Contract Documents indicate more restrictive tolerances or more rigid standards. All work shall be performed by persons qualified to produce first class workmanship.

In order to establish standards of quality, Division has, in the detailed Construction Specifications, referred to certain products by name and catalog number. This procedure is not to be construed as eliminating from competition other products of equal or better quality by other manufacturers where fully suitable in design. Whenever a material is specified or described using the name of a proprietary product or the name of a particular manufacturer or vendor, the item specified shall be understood as establishing the type, function, and quality desired. Other manufacturers' products may be accepted provided sufficient information, including any necessary certifications, are submitted to allow Engineer to determine that the products proposed are equivalent to those named. See Paragraph 3-25.

A. **DEFINITIONS:** The following definitions shall apply with respect to products specified in Construction Specifications:

1. Products specified by Reference Standard: Any product meeting that standard.

2. Products specified by "similar and equal to" preceding a single proprietary name: Any product meeting specified requirements; named product complies with Construction Specifications.

3. Products specified by "Basis of Design" preceding a single proprietary name: "Similar and equal to" is implied unless additional manufacturer's characteristics of named product were used in the design.

4. Products specified by naming products of manufacturers, without qualification: Contractor shall submit request for substitution for product or manufacturer not named.

B. **SUBSTITUTIONS WILL BE CONSIDERED ONLY WHEN:**

1. A specified product or material becomes unavailable or not practical due to no fault of Contractor;

2. The substitution is substantially to Division's advantage (equal product for less life cycle cost or higher quality product at no change in the Contract sum);

3. Under no circumstances shall a substitution be considered absent a separate written change order request, even when indicated or implied on Shop Drawings or Product Data submittals.

C. **SUBSTITUTIONS SHALL BE PROCESSED AS FOLLOWS:**

1. Contractor shall document each request for substitution with complete data substantiating compliance of proposed substitution with Contract Documents. Such data must be submitted prior to submittal of first progress payment estimate, and shall at a minimum include:

   a. Comparison of Qualities of proposed substitution with that specified including all points of difference;

   b. Samples, drawings, or engineering notes, where required or requested to show specific construction, finishes, etc.;

   c. Availability of maintenance service and source of replacement parts;

   d. Changes required in other elements of the work because of the substitution;

   e. Effect on Construction Schedule;

   f. Name and address of similar projects on which product was used and date of installation.

2. Contractor shall abide by Engineer's judgment when proposed substitute materials or items of equipment are judged to be unacceptable and shall furnish the specified material or item of equipment in such case. All proposals for substitutions shall be submitted in writing by Contractor and not by individual trades or material suppliers. Division shall approve or disapprove proposed substitutions in writing within a reasonable time. No substitute materials shall be used unless approved in writing.

3. Contractor shall bear all costs for engineering services required to check proposed substitute methods or type of construction and, if accepted, to prepare record drawings. Products include material, equipment, and systems necessary to complete the project. These products shall, at a minimum, comply with Construction Specifications and referenced standards. Product components required to be supplied in quantity within a Construction Specification shall be identical and interchangeable.

4. Each substitution request shall constitute a representation that Contractor:

   a. Has investigated the proposed product and determined it meets or exceeds the specified quality and product standards in all respects;

   b. Shall provide the same warranty for substitution as for specified product;

   c. Shall coordinate installation and make other changes which may be required to complete work in all respects;

   d. Waives claims for additional costs which may subsequently become apparent.

5-02 MATERIALS FURNISHED BY DIVISION: Division shall furnish materials specifically indicated. Division furnishing certain materials is conclusive evidence of its acceptability for the purpose intended, and Contractor may continue to use it until otherwise directed. Contractor shall notify Division if any defects in materials furnished by Division are discovered. Materials furnished by Division, which are not locally available, shall be provided at locations listed in the Contract Documents. Contractor shall be responsible for any and all material loss or damage, including that caused by third parties, after receipt of material.

5-03 MATERIALS FURNISHED BY CONTRACTOR: All materials used in the work shall meet the requirements of the Contract Documents. All materials used in the work whether specified or not shall be furnished by Contractor.

Contractor shall transport products by methods designed to avoid product damage, and shall deliver products to the project site in an undamaged condition and in the manufacturer's unopened containers or packaging. Contractor shall provide adequate equipment and personnel to handle products so as to prevent damage. Contractor shall promptly inspect all product shipments to assure compliance with all requirements, correctness of quantities, and that the products are undamaged. Contractor shall where necessary furnish all shop and installation drawings, product data, and samples, as indicated in Construction Specifications and Paragraph 3-25 of this Document.

5-04 TESTING SERVICES: Required inspection and testing services are intended to assist in determination of compliance of the work with requirements of the Contract, but shall not relieve Contractor of responsibility for completion of all work in accordance with requirements of the Contract Documents. Requirements for specified inspections and tests are not intended to limit Contractor's quality control program, but are instead intended to establish a minimum testing level considered necessary to adequately monitor compliance of construction materials and methods with Contract Documents.

A. **RESPONSIBILITY FOR TESTING:** Contractor shall retain and pay, at Contractor's expense, a qualified testing agency or laboratory (laboratories) as described below, to conduct materials and construction compliance tests as required by the Contract Documents. Type, number and extent of the materials testing program is described in each respective Section of Construction Specifications. The testing laboratory shall be available throughout the construction period to insure prompt compliance with these requirements.

B. **QUALIFICATION OF TESTING AGENCIES:** Except as otherwise indicated, and except where manufacturer's testing facilities are indicated as acceptable, Contractor shall retain recognized testing laboratories specializing in the required services and routinely having provided those services for a continuous period of at least three (3) years prior to execution of the Contract.

C. **REPORTS:** Test/inspection reports, including analysis of results and recommendations where applicable, shall be submitted in triplicate to Engineer except as otherwise indicated. Where required or requested, copies shall also be submitted directly to governing authorities.

D. **COORDINATION:** Contractor shall cooperate with laboratory personnel; provide access to work; notify laboratory sufficiently in advance of operations to allow for assignment of personnel and scheduling of tests; furnish labor and facilities to provide access to work for testing purposes; and obtain and handle samples at the site.

E. **DIVISION'S TESTS:** Division reserves the right to conduct independent tests from time to time as it considers necessary to validate or amplify Contractor tests. Division may engage and pay the costs of an independent testing agency meeting the requirements set forth above when such tests are considered necessary or advisable. Any work found to be in non-compliance with requirements of the Contract Documents shall be corrected by Contractor and retested. Costs of retesting shall be paid by Contractor.

F. **CODE COMPLIANCE TESTING:** Inspections and tests required by codes, ordinances, or a plan approval authority, and conducted by a legally constituted authority, shall be the responsibility of, and be paid for by, Contractor, unless otherwise provided in the Contract Documents.

G. **CONTRACTOR'S CONVENIENCE TESTING:** Inspection or testing performed exclusively for Contractor's convenience shall be the sole responsibility of Contractor.

H. **LABORATORY TEST REPORTS:** Contractor shall submit copies of all laboratory reports describing results of tests on materials, products and workmanship, as such reports are made available by the testing agency. Contractor shall submit copies in triplicate to Engineer.

5-05 STORAGE OF MATERIALS: Materials shall be stored in such manner as to ensure the preservation of their quality and fitness for the work. Contractor shall provide personnel to receive, unload, and store all materials and equipment delivered to the project site. Stored materials shall be located so as to facilitate prompt inspection. Contractor shall maintain the storage yard in a neat and orderly manner. In addition, the following shall apply to storage of materials:

A. Materials and equipment may be stored inside the project limits in locations approved by Division. All areas disturbed for equipment and material access or storage must be reclaimed after final use.

B. Products shall be stored in accordance with manufacturer's instructions, with labels intact and legible. Sensitive products shall be stored in weather-tight enclosures, and maintained within temperature and humidity ranges required by manufacturer's instructions.

C. Any fabricated products stored outside shall be placed on sloped supports above ground. Products subject to deterioration shall be covered with impervious sheet coverings, with ventilation provided to avoid condensation.

D. Loose granular materials shall be stored on solid surfaces in well drained areas so as to prevent mixing with foreign matter.

E. Private property outside the work limits shall not be used for storage purposes without the written permission of Division and the private property owner.

5-06 REJECTED WORK AND MATERIALS: All materials which do not conform to the requirements of the Contract Documents, are not equal to samples approved by Engineer and Division, or are in any way unsatisfactory or unsuited to the purpose for which they are intended, shall be rejected. Any defective work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause shall be removed and the work re-executed by Contractor.

Defective work or material may be condemned by Engineer and Division at any time before final acceptance of the work. Notice of condemnation shall be given in writing by Engineer and Division. Condemned work or material shall be removed or disposed of to the satisfaction of Engineer and Division within ten (10) days after written notice is given by Engineer or Division. In the event Contractor fails to remove rejected work or materials within ten (10) days after written notice to do so, Division may remove and store the materials at Contractor's cost. Failure or neglect on the part of Engineer or Division to condemn unsatisfactory material or reject inferior workmanship shall in no way release Contractor, nor shall it be construed as an acceptance of such work, nor shall the final acceptance bar Division from recovering damages in cases where fraud was practiced, or where defective work results from Contractor's dishonesty. No compensation shall be made for defective work or materials.

Work done contrary to or without regard to the instructions of Engineer and Division, work done without lines, grade and/or cross section stakes and grades shown on the Plans or as given by Engineer and Division, or deviation made from the Contract Documents, without written authority, shall be considered unauthorized and at the expense of Contractor, and shall not be measured or paid for by Division. Any and all work so done may be ordered removed and replaced immediately at Contractor's expense.

See also Paragraph 7-08.

5-07 MANUFACTURER'S DIRECTIONS: Manufactured articles, material and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the Manufacturer unless herein specified to the contrary. In the event any such instructions conflict with Contract Documents, Contractor shall seek clarification from Engineer or Division before proceeding.

When required by individual sections of Construction Specifications, Contractor shall provide the following:

1. Manufacturer's printed instructions for delivery, storage, assembly, installation, startup, adjusting, and finishing, as appropriate. One (1) copy shall be maintained by Contractor for inclusion in the project record documents.

2. Qualified personnel to observe and, as applicable, provide appropriate recommendations regarding field conditions, conditions of surfaces and installation quality workmanship, and startup of equipment.

5-08 CUTTING AND PATCHING: Contractor shall perform all necessary cutting and patching of work required to properly receive the work of the various trades or, as required by the Contract Documents, to complete the work. Contractor shall restore all such cut or patched work as directed by Engineer or Division. No cutting of existing structures that may endanger the work, adjacent property, workers or the public, shall be done unless first approved by Division, and then under Engineer's or Division's directions.

5-09 PATENTS: All fees or royalties for patented inventions, equipment, or arrangements, that may in any manner be used in connection with the construction or erection of the work, or any part thereof, shall be included in the Contract unit price.

Contractor shall protect and hold harmless Division against any and all claims or litigation by reason of infringement of any patent rights on any materials, equipment, or construction furnished by Contractor.

5-10 GUARANTEE: Contractor guarantees all work and material against all defects for the period specified below and in the Performance Bond, or in the Special Conditions. Contractor shall repair or replace any such defective work and/or material to conform to the provisions of the Contract Documents and without expense to Division, within ten (10) days of notification in writing by Division of such defective work or material. If Contractor fails to make the repairs or replacements or fails to make arrangements for the correction thereof within the period specified above, Division may do so and charge the cost to Contractor. Contractor shall perform the work so as to cause Division a minimum of inconvenience and interruption of services.

Neither the final certificate of payment, nor partial use or occupancy of the premises by Division or Landowner, or any provision of the Contract Documents, shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve Contractor or the sureties of liability in respect to any express warranties or responsibility for faulty materials or workmanship.

With the exception of Seeding and Seedling Planting, Contractor or the Surety shall remedy any defects in the work and pay for any damages to other work resulting therefrom which may appear within a period of one (1) year from the date of final acceptance unless a longer period is otherwise specified in the Special Conditions. Division shall give notice of observed defects with reasonable promptness.

In case of default on the part of Contractor in fulfilling any part of the Contract Documents, Division may correct the work or repair the damage, and the cost and expense incurred in such event shall be paid by or become recoverable from Contractor.

Should Contractor be required to perform tests that, due to climatic conditions, must be delayed, it is understood that such tests shall be accomplished by Contractor at the earliest possible date, with the provision that the General Guarantee period begins upon satisfactory completion of said test. Contractor's responsibility under this Section shall not be abrogated, in the event Division elects to initiate final payment.

With respect to seeding work and planting of seedlings as described in Construction Specifications, there shall be no extended guarantee period as described above for other work items. Contractor shall be responsible for establishing grass areas and planting seedlings as required in Construction Specifications. Division's acceptance of established seeded areas and seedlings planted in accordance with requirements of Construction Specifications, shall conclude Contractor's responsibilities hereunder. In the event reseeding or reestablishment of such areas or plantings be required following Division's acceptance of seeding or seedlings, such work shall be considered Division's responsibility.

See also Paragraph 7-16.

5-11 UNFAVORABLE WEATHER CONDITIONS: During unfavorable weather, including but not limited to conditions involving wet or frozen ground, or other unsuitable construction conditions, Contractor shall confine operations to work which will not be adversely affected by such conditions, unless special means or precautions, as referenced in Construction Specifications, are taken by Contractor to perform the work in a proper and satisfactory manner.

5-12 BOND: Prior to signing the Contract, Contractor shall furnish a good and sufficient performance bond on the provided form *(Document J)* in the full amount of the Contract.

Bond shall guarantee faithful performance of the provisions of the Contract, including the guarantee of all work and materials against all defects for the period specified in the Performance Bond *(Document J)*, and the payment of all bills and obligations arising from said Contract.

The Performance Bond, in the amount of one hundred percent (100%) of the Contract amount, shall remain in place for one year following the date of final acceptance by Division of ***all*** work included in the Contract.

See also Paragraph 1-17.

SECTION 6 - LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

6-01 INSURANCE AND RELATED PROVISIONS: Contractor assumes full responsibility for the safekeeping of all materials and equipment and for all unfinished work until final acceptance by Division, and if any of it be damaged or destroyed from any cause, Contractor shall replace it at Contractor's own expense.

Contractor shall be responsible for all areas used by Contractor and all subcontractors in the performance of the construction activities on site. Contractor shall exert full control over the actions of all employees and other persons with respect to the use and preservation of property, and new and existing facilities.

Contractor shall indemnify and hold harmless Division against any liens filed for nonpayment of bills in connection with the Contract work. Contractor shall furnish Division satisfactory evidence that all persons who have done work or furnished materials, equipment, or service of any type under this Contract have been fully paid prior to acceptance of the work by Division. See also Paragraph 7-14.

Contractor shall indemnify and hold harmless Division, Division's employees, Engineer, and Engineer's employees from any and all liability, loss, cost, damage, and expense (including reasonable attorney's fees and court costs) resulting from, arising out of, or incurred by reason of any claims, actions, or suits based upon or alleging bodily injury, including death, or property damage arising out of or resulting from Contractor's operations under this Contract, whether such operations be by Contractor or by any Subcontractor or by anyone directly or indirectly employed by either of them. Contractor shall obtain insurance for this purpose, which shall insure the interests of Division and Engineer as the same may appear, and shall file with Division certificates of such insurance.

A. **INSURANCE REQUIREMENTS:**

1. Contractor shall not commence work under this Contract until all insurance required hereunder has been obtained and such insurance has been approved by Division, nor shall Contractor allow any subcontractor to commence work on subcontracts until all insurance required of subcontractor has

been so obtained and approved. Insurance required under this article shall remain in effect during the life of the Contract, and for no less than one (1) year thereafter.

2. Contractor shall furnish for filing with Division a Certificate of Insurance, complete in all respects, in favor of Engineer, and the State of Iowa, Department of Agriculture and Land Stewardship, Division of Soil Conservation, showing compliance with requirements of this Section. Any certificate filed with Division which any time is found to be incomplete or not according to form shall be returned as unsatisfactory.

3. A rejected Certificate of Insurance shall be corrected as necessary and resubmitted until approved.

4. Each and every insurance policy, procured by Contractor, shall contain an endorsement stating that the insurance company shall not, prior to completion of project plus one (1) year thereafter, or any policy expiration date shown on policy and certificate, whichever occurs first, terminate policy or change any coverage therein without first mailing by registered mail written notice of such action at least thirty (30) days prior to termination or change, to Division.

5. Minimum insurance required is as specified below and in the amounts indicated.

KIND OF INSURANCE			LIMITS OF LIABILITY
(a)	Workmen's Comp.		$///////Statutory Workmen's Comp.
(b)	Employer's Liability		$100,000/$100,000/$100,000 Accident/Aggregate/Disease
(c)	Comprehensive - Gen. Liability		$1,000,000 Each Occurrence - Premises and Operations $1,000,000 Each Occurrence - Independent Contractors $1,000,000 Each Occurrence - Operations and Products $1,000,000 Each Occurrence - Contractual $1,000,000 Aggregate - Completed Operations and Products
(d)	Comprehensive - Automobile Liability		
	(i)	Bodily injury	$500,000 Each Occurrence
	(ii)	Property Damage	$500,000 Each Occurrence
	(iii)	Hired and Non-Owned	$500,000
(e)	(Other) Umbrella		$1,000,000

6. Property damage liability insurance shall provide XC or U coverage.

7. Coverage shall include endorsement for broad-form property damage and broad-form personal injury.

8. Contractor agrees to assist in every possible manner the reporting and investigation of any accident, and upon request, to cooperate with all interested insurance carriers in the handling of any claim by securing and giving evidence and obtaining attendance of witnesses as required for any claim or suit.

9. The required insurance shall be written by a company licensed to do business in Iowa at the time the policy is issued. In addition, the company shall be acceptable to Division.

B. **NOTICES AND FEES:** Contractor shall procure and pay for all permits, fees, licenses, and bonds necessary for the prosecution of the work.

Contractor shall give all notices, pay all fees, and comply with all Federal, State, County, and municipal laws, ordinances, rules and regulations, and building and construction codes bearing on the conduct of the work. Contractor, as to all matters not particularly referred to and defined herein, shall notwithstanding be subject to the provisions of all pertinent ordinances which are hereby made a part hereof with the same force and effect as if specifically set out herein. Examples of several permit forms and affidavits which are known to be required in completing this Project and which shall be the responsibility of Contractor are included in the Appendix.

1. Contractor shall notify landowners of adjacent property and utilities when prosecution of the work may affect them. When it is necessary to temporarily deny access by landowners or tenants to their property, or when any utility service connection must be interrupted, Contractor shall give notices sufficiently in advance to enable the affected persons to provide for their needs. Notices shall conform to any applicable local ordinance and, whether delivered orally or in writing, shall include appropriate information concerning the interruption and instructions as to how to limit their inconvenience.

2. Utilities and other concerned agencies shall be contacted at least forty-eight (48) hours prior to excavation near underground utilities or pole lines. Existing utilities at the construction site may

include, but are not limited to, storm sewer, sanitary sewer, water, electric, telephone, gas, pipelines, cables, and tile lines.

3. Contractor shall make all necessary arrangements with utility companies for the preservation of all utility lines and shall at Contractor's expense, replace and/or relocate utility lines as required for construction.

C. **SECURITY:**

1. Contractor shall be responsible for protecting the site, and all work materials, equipment, and existing facilities thereon, against loss or damage attributable to vandals, livestock, and any unauthorized persons.

2. No claim shall be made against the landowner, tenant, Division, or Engineer by reason of any act of any employee, trespasser, or any Subcontractor or agent of the Contractor, and Contractor shall repair any damage to landowner's property resulting from Contractor's failure to provide security measures as specified above.

6-02 USE OF PREMISES: Contractor shall confine equipment, materials, and work operations to the Project limits, as indicated in both the Contract Documents and any laws, ordinances, permits, or directions of Division, and shall not unreasonably encumber the premises with materials. Contractor shall use care in placing construction tools, equipment, excavated materials, and construction materials and supplies so as to cause the least possible damage to, and interference with, the property surrounding the site. Use of premises outside the Project limits, indicated in the Contract Documents, shall be at Contractor's sole risk. Contractor shall be responsible to coordinate and obtain written approvals for such use with landowners and appropriate governmental agencies.

6-03 CONFINEMENT OF OPERATIONS ON PROPERTIES SUBJECT TO RIGHTS-OF-WAY AND EASEMENTS: It shall be Contractor's responsibility to confine construction activities within the limits of easements, property lines and limits of construction. Any damage to persons or property resulting from encroachments beyond these limits shall be the sole responsibility of Contractor.

6-04 SAFETY: Contractor shall at all times exercise reasonable precautions to protect persons, employees, and property. The safety provisions of applicable laws and local building and construction codes shall be observed.

Contractor's operations shall meet the requirements of all applicable laws relative to protection of persons, and the guarding against hazards of machinery and equipment.

Contractor shall provide and maintain, at Contractor's expense and on a twenty-four (24) hour basis, all necessary safeguards including, but not limited to, watchmen, warning signs or signals, barricades, and night lights at all unsafe places at or near the work. Special care shall be exercised to prevent vehicles, pedestrians, and livestock from falling into open trenches or being otherwise harmed as a result of the work.

Contractor shall in all cases maintain safe passageways at all road crossings, crosswalks and street intersections, and shall take all other reasonable precautions necessary to prevent accident or loss of any kind.

All work included under this Contract shall be done in accordance with the Occupational Health Act of 1970 (Williams-Steiger Act) as amended and enforced by the governmental authority responsible for the local enforcement of the Act. Enforcement and responsibility for fulfilling this provision of the Contract Documents shall rest solely with Contractor, superintendent, and foremen, and in no way shall rest with Division or Engineer.

Contractor shall comply with OSHA 1926 and Interpretation Document; Iowa Occupational Safety and Health Standards for Construction Industry (IOSH); and other applicable laws which are in effect on the date of issuance of the Notice-to-Bidders.

6-05 FAILURE TO PAY FOR LABOR AND MATERIALS: In addition to any other requirements imposed under Iowa law, if Contractor at any time fails to pay Subcontractors or laborers employed to perform work under the Contract, or fails to pay for the materials used therein, Division may withhold from the money which may be due Contractor under this agreement such amount or amounts as may be necessary for the payment of such Subcontractors, laborers, or for the cost of materials, and may, acting as agent for Contractor, apply the same to such payments and deduct the same from the final estimate of Contractor.

6-06 MOVING OF PUBLIC AND PRIVATE UTILITIES: Prior to completing any work, Contractor shall notify all affected utilities to move such portions of their installations as would be within the confines of the finished improvement. It shall be Contractor's responsibility to coordinate construction work with the utilities so as to cause the least possible interference, and avoid any conflicts with provisions of the Contract Documents.

No utility, private or public, shall be moved to accommodate Contractor's equipment or method of operation when such utility does not conflict with the installation of the improvement under construction, unless Contractor assumes all costs associated with such removal.

6-07 PROTECTION OF PUBLIC AND PRIVATE UTILITIES: Contractor shall support and protect, by timbers or otherwise, all pipes, conduits, poles, wires or other apparatuses which may in any way be affected by the work. If, through Contractor's operations, any of said pipes, conduits, poles, wires, or apparatuses should be damaged, they shall be repaired by the authorities having control of same, and the cost of such repairs shall be borne by Contractor.

Contractor shall be further responsible for any damage to streets or other public property, or any private property, by reason of breaking of any water pipe, sewer or gas pipe, electric conduit, or other utility by or through Contractor's or any subcontractor's negligence.

6-08 DAMAGE TO EXISTING PUBLIC AND PRIVATE PROPERTIES: Underground utilities of record will be shown on the Contract Documents. These, however, are shown for general information only, and neither Division nor Engineer assumes any responsibility for improper locations of or failure to show utility locations on the Contract Documents.

Contractor shall take all reasonable and necessary precautions to protect lawns, trees and shrubs outside rights-of-way, sidewalks, curbs, pavements, utilities, adjoining property, and structures, and to avoid damage thereto. Contractor shall at Contractor's expense completely repair any damage thereto caused by Contractor's operations to the satisfaction of Division, except as otherwise provided in other portions of the Contract Documents.

Contractor shall further be responsible for maintaining all existing fences affected by the construction work until completion of the Contract. Fences which interfere with construction operations shall not be removed, relocated, or dismantled until approval is obtained from Division or Engineer. In areas where the existing fences cannot be maintained due to construction operations, Contractor may be required, as deemed appropriate by Division, to provide temporary fences or other means to prevent unauthorized vehicular, pedestrian, or livestock access.

Contractor shall take all reasonable and necessary precautions to prevent dust from becoming a nuisance to the public, to neighbors, and to other work being performed on or near the site. Earth surfaces subject to dusting shall be kept moist with water or by application of a chemical dust suppressant. Dusty materials in piles or in transit shall be covered when practical to prevent blowing.

6-09 MAINTENANCE OF TRAFFIC:

A. **APPORTIONMENT OF RESPONSIBILITY:** Contractor shall be responsible for maintenance, control, and the safeguarding of traffic within and immediately abutting the project as further outlined herein, and as may otherwise be provided in the Special Conditions.

B. **STREET CLOSURES OR PARTIAL CLOSURES:** Streets may be closed to through traffic but shall not be closed to traffic until such closure has been approved by the appropriate Governmental Agencies. Street closures shall be made in such a manner as to provide for maximum public safety and public convenience. They shall be opened to through traffic at such time as the work has been completed, or as the appropriate Governmental Agencies may direct.

C. **DETOURS:** Detours within the limits of the project such as side street crossings, temporary bridges over freshly placed concrete, utilization of one or more lanes of the construction area for maintenance of traffic, and such related facilities for the maintenance of traffic shall be the responsibility of Contractor, the costs for which shall be included in the appropriate Contract unit price.

D. **LOCAL AND EMERGENCY TRAFFIC:** Local traffic shall be provided access to private properties at all times, except during some urgent stages of construction when it is impracticable to carry on the construction and maintain traffic simultaneously, such as for the placing of asphalt concrete pavement, placing and curing of Portland cement concrete pavement, and deep sewer excavations which prohibit safe travel of vehicular traffic.

   Emergency traffic such as police, fire, and disaster units shall be provided reasonable access at all times.

E. **PROTECTION OF PEDESTRIAN AND VEHICULAR TRAFFIC:** Contractor shall take every precaution to protect pedestrian and vehicular traffic. All barricades, signs, lights, and other protective devices shall be installed and maintained in conformity with applicable statutory requirements and where within the County rights-of-way, as required by the authority having jurisdiction thereof. All barricades and obstructions shall be illuminated with warning lights from dusk to dawn.

F. **PARKING:** Contractor shall provide and maintain suitable parking areas for the use of all construction workers and others performing work or furnishing service in connection with the project, as required to avoid any need for parking personal vehicles where they may interfere with public traffic. The reclamation of all equipment and private vehicle parking areas shall be required prior to the approval of final payment.

   Where parking is a hazard to through traffic or to the construction work, it shall be restricted either entirely or during the time when it creates a hazard. Contractor shall consult appropriate Governmental Agencies as necessary to obtain signs for this purpose. Contractor shall be responsible for and shall maintain the signs if they are used on any street which is directly involved in the construction work. If the parking signs are to

be used beyond the confines of the work area, such as another street being used as a detour, the signs will be the responsibility of the Governmental Agency.

G. **FLAGMEN:** Contractor shall furnish at Contractor's own expense all flagmen who may be needed.

H. **TEMPORARY PROJECT ACCESS ROADS:** Contractor shall establish and maintain temporary access roads to various parts of the project as required to complete the Contract. Such roads shall be available for the use of all others performing work or furnishing services in connection with the project. All such access roads shall be reclaimed. Reclamation of all roads shall be required prior to approval of final payment.

I. **PROTECTION OF PUBLIC BRIDGES:** Where existing public bridges need to be crossed to gain access to the site, Contractor shall abide by posted weight limits or seek variances from the owner(s) of bridges to cross them with overweight equipment. Where no weight limit is posted, Contractor shall contact the bridge owner and obtain permission to cross it with any equipment. The same requirements apply to material deliveries for the project.

6-10 TRAFFIC CONTROL WITHIN AND ABUTTING THE PROJECT: Contractor shall place and maintain all signs, barricades and warning lights within the limits of the project on all streets, alleys and driveways entering the project so that approaching traffic will turn right or left on existing undisturbed streets before reaching the warning signs and barriers immediately abutting the project. Contractor shall consult appropriate Governmental Agencies to obtain any and all required warning signs.

Barricades shall be furnished by Contractor. The barricades shall conform to requirements of the Governmental Agency.

6-11 USE OF EXPLOSIVES: Blasting shall not be permitted in any case without specific authority of Division, and then only under such conditions as may be required by the proper authorities.

When the use of explosives is necessary for the prosecution of the work, Contractor shall use the utmost care so as not to endanger life or property, cause slides, or disturb the materials outside the project work limits.

Blasting shall be completed in the vicinity of new structures before construction on such structures is undertaken. All explosives shall be stored in a secure manner and placed in compliance with local laws and ordinances and all such storage places shall be clearly marked "Danger - Explosives." No explosive shall be left in an unprotected manner at any time or location.

6-12 RAILROAD CROSSINGS: Wherever a project is being constructed beneath, at grade, or above railroad tracks, or where access into or across a railroad right-of-way is necessary to accomplish any portion of the work, Division shall obtain all necessary permits for the work. It shall be Contractor's responsibility, however, to contact the railroad company prior to constructing such crossings and to proceed with the construction as directed by the railroad company. Contractor shall comply with all construction and additional insurance requirements of the railroad company. Division's sole financial obligations with railroad requirements is confined to securing the permit(s). All other associated responsibilities and costs, therefore, shall be borne by Contractor. Contractor shall hold Division and Engineer harmless from any and all damages resulting from operations within railroad rights-of-way.

6-13 SANITARY PROVISIONS: Contractor shall provide self-contained chemical toilet units, adequate for use of employees of Contractor, Engineer, Division, and of visitors, and other persons frequenting the site on behalf of the work. Privies will not be permitted. Contractor shall furnish toilet tissue and shall maintain the facility in a clean and sanitary condition. Contractor shall permit no public nuisance.

6-14 USE AND OCCUPANCY PRIOR TO COMPLETION OF CONTRACT: Division shall have the right to take possession of and use any completed or partially completed portions of the work, notwithstanding that the time for completing the entire work or such portions may not have expired; but such taking possession and use shall not be deemed an acceptance of any portion of the work not completed in accordance with the Contract Documents. Any claims Division may have against Contractor shall not be deemed waived by such occupancy.

If Division's prior use increases the cost, or delays the completion of uncompleted work, or causes refinishing of completed work, Contractor shall be entitled to such extra compensation, or extension of time, or both, as Division in consultation with Engineer determines reasonably necessary.

6-15 PERSONAL LIABILITY: Neither Engineer, Division, their employees, or any employee of the State of Iowa, shall be personally responsible for any liability arising under or growing out of the Contract.

See also Paragraph 6-01.

6-16 NO WAIVER OF LEGAL RIGHTS: Should an error be discovered in or payment of unauthorized work be made by the final estimate, or should dishonesty on the part of Contractor be discovered in the work, Division reserves the right, after final payment has been made, to claim and recover by any lawful means such sums as may be sufficient to correct the error, to recover the overpayment, or to make good the defects in the work resulting from Contractor's dishonesty.

SECTION 7 - MEASUREMENT AND PAYMENT

7-01 MEASUREMENT: The determination of pay quantities for work performed under the Contract shall be made by Engineer based upon the lines, grades, and cross sections given, or measurements made by Engineer or Engineer's assistants. Payment for all items shall be computed in the units stated in the Proposal and Schedule of Prices *(Document C)*.

The method to be used in measuring and calculating the payment quantity for each work item set forth in the Proposal and Schedule of Prices *(Document C)* is described in the particular Section of Construction Specifications in which work to be accomplished under that particular work item is described. (Example: See paragraph titled "Measurement and Payment" in SECTION 02200, EARTHWORK, ROUGH GRADING, for description of method to be used to measure and calculate earthwork quantities for payment purposes.)

No representation is made as to the accuracy or completeness of the quantities shown on the Contract Documents. Contractor is responsible for quantity take offs.

7-02 SCOPE OF PAYMENT: Contractor shall accept the compensation, as provided in the Contract Documents, in full payment for:

1. Furnishing all supervision, labor, materials, tools, and equipment necessary to complete the work covered by the Contract Documents;

2. Loss or damage arising from the nature of the work, the action of the elements, or any unforeseen difficulties encountered during the prosecution of the work until final acceptance by Division,

3. All risks of every description connected with the prosecution of the work;

4. All expenses incurred in consequence of the suspension or discontinuance of the work;

5. Completing the work according to the Contract Documents.

The Contract unit prices for the various bid items of the Contract shall, unless the Contract Documents provide otherwise, constitute full compensation for all labor, materials, supplies, equipment, tools and all things of whatsoever nature required for the complete incorporation of the item into the work, the same as the item were to read "In Place".

Separate payment shall be made based on Contractor's unit bid price and the quantity of construction completed at the time of acceptance by Division only for those items specifically listed in the Proposal and Schedule of Prices *(Document C)*. No separate payment shall be made for the work required to complete this project except for those bid items set forth in the Proposal and Schedule of Prices *(Document C)* or such other bid items as may be approved by Change Order or Amendment to the Contract. This compensation shall constitute full payment for Contractor's providing of all labor, materials, equipment, and supervision, necessary to complete the construction as specified in the Contract Documents. All other work is incidental to the project. Payment for materials shall be made only for materials actually incorporated in the work or stored on site. Payment for extra work shall be made in accordance with Paragraph 7-03 of this Section. As specified in the Notice-to-Bidders, payment shall be made on the basis of monthly estimates in amounts equal to ninety-five percent (95%) of the value of the work completed.

Neither the payment of any estimate nor the payment of any retained percentage shall relieve Contractor of any obligation to make good any defective work or material.

7-03 PAYMENT FOR EXTRA WORK: Adjustments, if any, in the amounts to be paid Contractor by reason of any change, or addition, shall be determined by one or more of the following methods:

1. By an acceptable lump-sum proposal from Contractor;

2. By Contract unit prices as contained in the Proposal and Schedule of Prices *(Document C)*, or by unit prices mutually agreed upon by Contractor and Division;

3. By payroll cost of labor plus fifteen percent (15%) for profit, overhead and small tools, plus the amount of social security tax imposed by law upon Contractor, plus the cost of workmen's compensation, public liability insurance and employment security contributions;

4. By actual cost of materials delivered to the work, including freight and hauling charges as shown by original receipted bills, plus fifteen percent (15%); or

5. By equipment rental rates for machinery, tools and equipment, except small hand tools, as determined from current publications of recognized equipment dealers.

It shall be Contractor's responsibility to obtain proper authorization from Division before proceeding with any extra work. No charge for extra work or any other change in the Contract shall be allowed unless: (1) the extra work or change has been

authorized by a written Change Order or Contract Amendment, signed by Division, and if applicable by the Surety, and (2) the compensation or method thereof is stated in such signed Change Order or Contract Amendment.

See also Paragraphs 4-02, 4-03 and 4-04.

7-04 PROGRESS PAYMENTS/RETAINED PERCENTAGE: Contractor shall be entitled to monthly progress payments corresponding to the stage of the work. The initial progress estimate shall be prepared by Engineer not later than thirty (30) days after commencing work. Subsequent progress estimates shall be prepared at approximately thirty (30) day intervals when work is being performed on the project. Under no conditions shall Contractor wait more than thirty (30) days after performing any work item to submit a request for a progress payment. Amounts shall be based upon an approximate estimate of quantities of work completed, multiplied by the unit prices established in the Contract, or shall be based upon estimated completed percentages of work listed in Contractor's approved price breakdown for lump sum items.

Cost of materials, properly stored, protected and insured at the site of work shall be paid for as requested by Contractor, and as provided for in the Contract Documents. In preparing monthly estimates, advancements shall be made for ninety five percent (95%) of the cost of such materials, as evidenced by invoices accompanying each payment request submitted by Contractor, and, if required by Division, after providing proof of insurance for the specified products, materials, or equipment. All materials must conform to the requirements of the Contract Documents; however, advancement for materials shall not constitute acceptance, and any faulty material shall be condemned although advancement may have been made for same in the estimates.

Quantities used for progress estimates shall be considered only as approximate and provisional, and shall be subject to recalculation, adjustment and correction by Division in subsequent progress estimates and in final estimates. Inclusion of any quantities in progress estimates, or failure to disapprove the work at the time of progress estimate, shall not be construed as acceptance of the corresponding work or materials.

Processing for payment of the retained percentage shall be withheld for a period of thirty (30) days following final acceptance by Division, and shall be processed for payment thereafter, in the event no claims, as provided by law, have been filed against such funds. In the event such claims are filed, Contractor shall be paid, after said funds are released from liens, such retained percentages, less an amount sufficient to pay any such claims as authorized under Iowa law.

Progress payments shall be applied for and shall be processed in accordance with applicable provisions of the Contract Documents.

A. **PAYMENT APPLICATION FORMS:** Appropriate Application and Request for Payment *(Document S)* forms shall be provided by Division (See Appendix). This form shall be accompanied by a revised Construction Progress Schedule (See Paragraph 3-23), except in the case of Final Payment

B. **INITIAL PAYMENT APPLICATION:** The principal administrative actions and submittals which must precede submittal of first payment application request shall include but not necessarily be limited to the following:

1. Listing of subcontractors and principal suppliers and fabricators.

2. Initial Construction Progress schedule.

3. Schedule of principal products.

4. Schedule of unit prices and estimated project quantities. (The Application and Request for Payment form *(Document S)* can be used.)

5. Schedule of submittals.

6. Copies of acquired permits and similar authorizations and licenses from governing authorities for performance of the work.

7. Performance and/or payment bonds.

8. Evidence satisfactory to Division that Contractor's insurance coverages have been secured.

9. Storm Water Pollution Prevention Plan up to date.

10. Date established for Acid Water Neutralization and Dewatering meeting if needed for project.

11. Refer to the Contract Documents and comply with any requirements not herein listed.

C. **SUBMITTAL OF APPLICATION AND REQUEST FOR PAYMENT *(DOCUMENT S)*:** The following procedure shall be used to submit all progress pay requests using the Application and Request For Payment *(Document S)* form:

1. Contractor shall provide quantities and any associated back up documentation to Engineer.

2. Engineer shall confirm the quantities and provide draft of Pay Application to Division and Contractor at least two (2) days prior to scheduled progress meeting. A draft copy of any accompanying change order shall also be provided for review.

3. Engineer shall bring three (3) blank copies of the Pay Application, and four (4) copies of any accompanying change order.

4. Contractor and Engineer shall sign the Application for Payment and any accompanying Change Order. All signed copies shall be provided to Division for further processing.

D. **RETAINED PERCENTAGE:**

1. Division may withhold from payments to Contractor, in addition to the retained percentage pursuant to Paragraphs 7-02 and 7-04 of this Section, amounts necessary to cover:

   a. Payments that may be earned or due for just claims for labor or materials furnished in and about the work, in excess of, or not subject to, the amount retained pursuant to this Section.

   b. Payments for defective work not remedied.

   c. Amounts deemed reasonably necessary for completion of the work remaining in an individual bid item, or for the completion of the total work covered by the Contact Documents.

   d. Payments for extra administrative, engineering, and inspection costs if Contractor has not completed the work within the time specified.

2. Division shall disburse and shall have the right to act as agent for Contractor in disbursing such funds as have been withheld pursuant to this paragraph to the party or parties who are entitled to payment therefrom. Division shall render to Contractor a proper accounting of all such funds disbursed on Contractor's behalf.

3. In the event claims are filed in a timely manner, Division shall withhold from payment to Contractor an amount equal to at least double the amount of such claims. Division shall release such funds to Contractor upon compliance with Iowa Code Section 573.16.

4. In preparing monthly estimates, advancement shall be made for ninety-five percent (95%) of the cost of materials described in the second paragraph of this Section as evidenced by invoices accompanying each payment request submitted by Contractor.

E. **RELEASE OF RETAINAGE AT NINETY-FIVE PERCENT (95%) PROJECT COMPLETION**

Iowa Code Section 573.27 permits full payment for completed work when at least ninety-five percent (95%) of the construction contract has been completed to the satisfaction of the public contracting authority, and owing to conditions beyond the control of Contractor, the remaining work covered by the Contract Documents cannot proceed for a period of more than sixty (60) days. In that event, Contractor may request payment of the retainage on work completed and accepted and, if approved, a Contract Amendment *(Document U)* shall be prepared. Processing for the release of the retainage shall be subject to the thirty (30) day waiting period as discussed in the Notice-to-Bidders. In any event, the performance bond must remain in effect through the entire period of the Contract (see Paragraph 5-12 above).

This Section is intended to implement Iowa Code Chapter 573, and shall not be considered a waiver of any provisions of said Chapter. In the event any portion of this Section is held by a court of competent jurisdiction to be inconsistent with Chapter 573, the provisions of Chapter 573 shall control.

7-05 DIVISION'S ACTION ON AN APPROVED REQUEST FOR PAYMENT: Within thirty (30) days from the date Division receives an Engineer approved Application and Request for Payment (sixty (60) days in the case of initial requests for payment), Division shall:

1. Pay the Application and Request for Payment as approved; or

2. Pay such other amount as Division deems due and owing Contractor, informing Contractor and Engineer in writing of the reasons for paying the amended amount; or

3. Withhold payment informing Contractor and Engineer of the reasons for withholding payment.

7-06 INTEREST ON UNPAID REQUESTS FOR PAYMENT: In the event Division fails to pay an Engineer-approved Application and Request for Payment within thirty (30) days from the date Division receives the approved request (initial requests for payment will be paid within sixty (60) days), and further fail to inform Engineer and Contractor in writing of the reasons for withholding payment, Division shall pay Contractor interest at the rate of five percent (5%) per annum on the unpaid balance from the date such payment was due until payment is made.

7-07 PAYMENT FOR UNCORRECTED WORK: In the event Division or Engineer directs Contractor not to correct work that has been damaged, or that was not performed in accordance with the Contract Documents, an equitable deduction from the Contract amount shall be made to compensate Division for the uncorrected work.

7-08 PAYMENT FOR REJECTED WORK AND MATERIALS: The removal of work and materials rejected under Paragraph 5-06, and the re-execution of acceptable work by Contractor, shall be at Contractor's expense, and Contractor shall pay the cost of replacing the work of other contractors destroyed or damaged by the removal of the rejected work or materials and the subsequent replacement of acceptable work.

Removal of rejected work or materials, and storage of materials by Division in accordance with Paragraph 5-06, shall be paid by Contractor within thirty (30) days of written notice by Division. If Contractor does not pay the expense of such removal within ten (10) days' written notice by Division of the intent to sell the materials, Division may sell the materials at auction or private sale, and shall pay Contractor the net proceeds therefrom after deducting all cost and expense that should have been borne by Contractor.

7-09 PAYMENT FOR WORK SUSPENDED BY DIVISION: If the work or any part thereof shall be suspended by Division and abandoned by Contractor as provided in Paragraph 3-04, Contractor shall be entitled to payment for all work performed on the portions so abandoned, plus fifteen percent (15%) of the value of the uncompleted portion of the abandoned work to compensate for overhead, plant expense, and anticipated profit.

7-10 PAYMENT FOR WORK BY DIVISION: The cost of work performed by Division in removing construction equipment, tools and supplies in accordance with Paragraph 3-14, and correcting deficiencies in accordance with Paragraphs 3-15 and 4-06, shall be paid by Contractor.

7-11 PAYMENT FOR WORK BY DIVISION FOLLOWING DIVISION'S TERMINATION OF CONTRACT: Upon termination of the Contract by Division in accordance with Paragraph 3-16, no further payments shall be due Contractor until the work is completed. If the unpaid balance of the Contract amount shall exceed the cost of completing the work, including all overhead costs, the excess shall be paid to Contractor. If the cost of completing the work shall exceed the unpaid balance, Contractor shall pay the difference to Division. The costs and damages incurred by Division through Contractor's default, shall be certified and approved by Division.

7-12 PAYMENT FOR WORK TERMINATED BY CONTRACTOR: Upon termination of the Contract by Contractor in accordance with Paragraph 3-17, Contractor shall recover payment from Division for the work performed, plus loss of plants and materials stored on site, plus established profit and damages, as approved by Division.

7-13 FINAL ACCEPTANCE AND FINAL PAYMENT: Contractor shall notify Division in writing when the work is considered completed and ready for final inspection and tests. Prior to such notice, Contractor shall complete any final punch list items and clean up the site. Site cleanup shall include removal of all construction debris, equipment, excess and waste materials. Final inspection and tests shall be conducted by representatives of Division, Engineer, and Contractor. The inspections and tests shall be conducted at a time convenient to all parties required to be present. Inspections and tests will be subject to the availability of facilities necessary to the conducting of such inspections and tests, if required. Failure of the completed work or any component thereof to pass inspections or tests shall be cause for initial rejection of the work or component. Final acceptance of the entire project shall not be made until any rejected portions are corrected, and re-inspected or retested. Subsequent failures of the project or component to pass inspection and tests may, at Division's option, result in final rejection, or in acceptance with assessment of damages for such failure.

Following final tests and inspections, Engineer shall notify Division and Contractor if the project is acceptable, in total or in part, and whether it appears to be in compliance with Contract Document requirements. Division shall not agree to Final Acceptance or make Final Payment until receipt of written certification from Engineer declaring the work of Contractor to be complete and in substantial conformance with the Contract Documents.

The administrative actions and submittals which must precede or coincide with submittal of final payment application shall be as follows:

A. **FINAL ACCEPTANCE REQUIREMENTS:** Prior to requesting Engineer's certification of final acceptance and final payment, as required above, Contractor shall submit:

1. Final payment request;

2. Certificates of insurance for products and completed operations where required;

3. Record documents (See Paragraphs 2-05 & 7-04)

4. Updated final work quantities accounting for additional (final) changes to Contract sum;

5. Final liquidated damages settlements statement acceptable to Division, if applicable;

6. Evidence of final, continuing insurance coverage complying with insurance requirements.

B. **PUBLICATION OF NOTICE OF COMPLETION**: Division will place a legal notice in a state-wide newspaper of its intention to close out the project and make final payment thirty (30) days after its publication. If a subcontractor or supplier contacts Division regarding not receiving full payment by Contractor, final payment will be delayed until such matters are deemed resolved by Division.

Final acceptance shall not relieve Contractor of the responsibility to restrict operations so as not to result in damage to accepted work. Any damage to said work caused by subsequent operations of Contractor, Contractor's personnel, or equipment shall be satisfactorily repaired at Contractor's expense.

Final acceptance of completed work shall be evidenced by Division's certification of final acceptance, and payment of Contractor's final estimate. Contractor's acceptance of payment of final estimate, or payment offered as final payment, shall constitute a release to Division, Engineer, and every officer and agent thereof from all claims and liabilities of Contractor for anything done or furnished, or relating to the work, or for any act or neglect of Division, Engineer, or of any person relating to or affecting the Contract.

7-14 LIENS: If any liens are filed and remain unsatisfied after all payments are made, Contractor shall refund to Division such amounts as Division may have been compelled to pay in discharging such liens including all costs and reasonable attorneys' fees authorized by Iowa law.

7-15 TERMINATION OF CONTRACTOR'S RESPONSIBILITY: The work covered by the Contract Documents shall be considered complete when all work has been finished, the final inspection has been made by Engineer and Division, and the requirements for final acceptance set forth above have been met as evidenced by Division's certification of final acceptance. Contractor's responsibility shall then cease, except as set forth in the guarantee periods contained in Contractor's Performance Bond (*Document J*).

7-16 CORRECTION OF FAULTY WORK AFTER FINAL PAYMENT: Neither the approval of the Final Application and Request for Payment by Division, nor the certification of final acceptance by Division, or the making of the final payment by Division to Contractor, shall relieve Contractor of responsibility for faulty materials or workmanship. Division shall promptly give notice of faulty materials or workmanship to Contractor and Contractor shall promptly replace any such defects. Division shall decide all questions arising under this Paragraph; provided, however, that all such decisions shall be subject to arbitration. See also Paragraphs 5-10 & 5-12.

7-17 LIQUIDATED DAMAGES: In the event Contractor fails to complete the work provided for herein within the times specified, Division shall be entitled to liquidated damages to cover all extra administration, engineering, and inspection costs necessitated by the continuance of the work beyond the times herein specified for completion. Such extra costs charged to Contractor in no way constitute a penalty but represent additional expense to Division caused by delayed completion of the work by Contractor.

Liquidated Damages shall be assessed as provided for in the Document C, taking into account any extensions of time granted by properly executed Contract Amendments. Such sums shall be deducted from the final pay request prior to payment.

END OF DOCUMENT N