

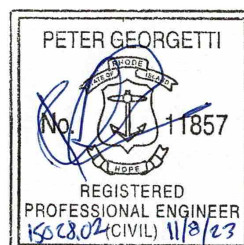
**PROJECT MANUAL AND SPECIFICATIONS  
FOR THE  
CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**



Prepared for:  
City of Woonsocket  
169 Main Street  
P.O. Box B  
Woonsocket, RI 02895

Prepared by:  
Pare Corporation  
8 Blackstone Valley Place  
Lincoln, RI 02865

**November 2023**



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**INDEX**

**DIVISION 0 - BIDDING AND CONTRACT REQUIREMENTS**

<u><b>SECTION</b></u>	<u><b>TITLE</b></u>
00020	Request for Proposals
00100	Information to Bidders
00200	Instructions for Proposers
00310	Price Proposal Form
00400	Supplements to Price Proposal
00410	Technical Proposal Requirements
00410-A	Reference Statement (Supplement 00410-A)
00410-B	Technical Questionnaire (Supplement 00410-B)
00410-C	Operation and Maintenance Cost Summary (Supplement 00410-C)
00500	Agreement
00620	Bid Bond
00630	Performance Bond
00700	General Conditions
00800	Supplemental Conditions
00840	Payment Bond
00850	Notice of Award
00860	Notice to Proceed

**DIVISION 1 - GENERAL REQUIREMENTS**

01010	General Description of the Work
01025	Measurement and Payment
01068	State Revolving Fund (SRF) Loan Program Requirements

**DIVISION 15 – MECHANICAL**

15100	Cold Water Meters and Absolute Encoder Registers
15200	Advanced Metering Infrastructure System

**APPENDIX**

Appendix A	Woonsocket Water Distribution System Map and Customer Addresses
Appendix B	Excerpts from Woonsocket City Code and City Charter

**DIVISION 0**

**BIDDING AND CONTRACT REQUIREMENTS**





**CITY OF WOONSOCKET, RHODE ISLAND  
REQUEST FOR PROPOSALS FOR:**

**“WATER METERS AND FIXED NETWORK AMI” – BID #6182**

**For the Woonsocket Water Division**

The City of Woonsocket, Rhode Island is seeking proposals for the purchase of water meters and procurement of a fixed network radio frequency (RF) advanced metering infrastructure (AMI) system with hardware and applicable software to replace their existing meters and mobile RF meter reading system. This contract includes the supply of approximately 9,450 meters ranging in size from 5/8-inch to 2-inch, complete with encoder registers and RF modules. Also included is the furnishing and installation of the AMI system. Installation of meters and associated hardware will be performed under a separate contract, anticipated to be advertised subsequent to the award of this Contract.

Separate sealed Proposal packages, including two (2) copies of both the Price Proposal and Technical Proposal, shall be received until **2:00 p.m. on December 19, 2023**, at the Woonsocket City Hall, Office of Purchasing, 169 Main Street, Woonsocket, RI 02895 at which time, Price Proposals will be opened and publicly read aloud.

Price Proposal and Technical Proposal must be enclosed in separate, opaque envelopes addressed to “Purchasing Agent, Office of Purchasing, City of Woonsocket, P.O. Box B, Woonsocket, Rhode Island 02895” bearing the name and address of the Proposer. All submitted materials must use the forms where provided in the Contract Documents. The Proposer’s Price Proposal submission shall be clearly marked with Price Proposal for Water Meters and Fixed Network AMI System, Bid No. 6182. The Technical Proposal submission shall be clearly marked with Technical Proposal for Water Meters and Fixed Network AMI System, Bid No. 6182.

Bid Security in the form identified within the Instructions for Proposers, and in the amount of five (5) percent of the total Price Proposal amount, must accompany each Price Proposal.

Contract Documents may be requested via email from the Engineer, Pare Corporation, to the attention of Peter Georgetti, P.E., ([pgeorgetti@parecorp.com](mailto:pgeorgetti@parecorp.com)) beginning **November 7, 2023**. Plan holders and prospective bidders shall identify a single point of contact that will be responsible for receiving all correspondence relating to this solicitation. The City will not be held responsible for correspondence, including addenda, issued by the City or their representatives, that is not received by respondents. Contract Documents will not be mailed. Only General Contract Bidders may obtain Contract Documents.



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

Prospective Proposers are encouraged to attend a Pre-Bid Conference on November 28, 2023, at 1:00 .m. The Pre-Bid Conference will be held at the Woonsocket Water Treatment Facility, 300 Jillson Avenue, **Woonsocket, RI 02895.**

Individuals requesting interpreter services for the hearing impaired should call the Finance Director at 401-762-6400 a minimum of seventy-two (72) hours in advance of the acceptance of Proposals.

Proposers on this work will be required to comply with the President's Executive Order Number 11246 entitled "Equal Employment" as amended by Executive Order 11875 and amendments or supplements to that Executive Order and a s supplemented in the Department of Labor Regulations (41 CER part 80). The requirements for bidders and contractors under this order are explained in the Instruction to Bidders.

This project is being funded in part by the Rhode Island Drinking Water State Revolving Fund loan. As such, all work under this Contract is subject to the prevailing wage rates of the State of Rhode Island and the Davis Bacon Regulations, in accordance with RIGL 37-13-1. Rhode Island Certified Prevailing Wage Daily Logs will be required to be filled out daily and maintained onsite throughout the course of the project. Certified payrolls will be required to be submitted for all work under this contract. The rates of pay set forth in these provisions are the minimums to be paid during the life of the contract. Bidders shall inform themselves as to the local labor conditions such as the length of workday and workweek, overtime compensation, health and welfare contributions, labor supply, and prospective changes or adjustments of rates.

All Bidders must comply with the State of Rhode Island requirements regarding the participation of minority/women's business enterprises (MBE/WBE's) or DBE in the performance of this contract. The successful bidder will be required to include in their bid documents for subcontractors and MBE/WBE's "Fair Share" percentage which totals at least 10 percent (10%) of the dollar value of the entire procurement or project.

This project is subject to the American Iron and Steel requirements of P.L. 113-76, the Consolidated Appropriations Act of 2014.

The successful Proposer must furnish a Performance and a Labor and Material Payment Bond, in the specific formats as attached herein, both for the full value of the Proposal Price, along with all required insurance certificates, within fifteen (15) calendar days after the award date in order to execute a Contract.

No Proposer may withdraw his Proposal within ninety (90) days following the closing time for receipt of Proposals.

The City of Woonsocket reserves the right to reject any and all Proposals or parts thereof, to waive any irregularity in the Proposals received, and to accept the proposal or part thereof to be most favorable to the best interest of the City.

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Finance Director

END OF SECTION

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

SECTION 00100

INFORMATION TO BIDDERS

**INFORMATION TO BIDDERS  
CITY OF WOONSOCKET  
FINANCE DEPARTMENT  
(401) 762-6400**

1. PROJECT NAME:

The Project Name is “Water Meters and Fixed Network AMI System - 2023”.

2. RECEIPT OF PROPOSALS:

Sealed proposals will be accepted and time stamped upon receipt in the Office Of Purchasing, City of Woonsocket, 169 Main Street, Woonsocket, Rhode Island, 02895; until the time, indicated on the Request for Proposals, for the commodities, equipment or services listed in the specifications. Price Proposals will be publicly read at the time specified in the advertisement. A sample meter shall be provided with the bid documents at the time of submission.

3. FORM OF BID:

Proposals shall be submitted in duplicate. Supplemental information, drawings, warranties, literature and material to be provided with the Proposal shall be on the proposer’s own form.

Where a specified brand or model number is asked for, it is to be viewed as a benchmark or standard, a substitute may be deemed equivalent at the discretion of the City of Woonsocket.

The City of Woonsocket reserves the right to award a contract by item or in total.

4. SUBMISSION OF PROPOSALS:

- Envelopes containing proposals must be sealed and addressed to the Purchasing Agent, Office of Purchasing, City of Woonsocket, P.O. Box B, Woonsocket, Rhode Island 02895, and must be marked with the name and address of the proposer with the name of the proposal in the lower left-hand corner.
- The Purchasing Agent will decide when the specified time has arrived to accept proposals and no proposal thereafter will be considered.
- Any proposer may withdraw his proposal by written request at any time prior to the advertised time for acceptance of proposals. Telephone bids, faxed bids, amendments or withdrawals will not be accepted.
- Unless otherwise specified, no proposal may be withdrawn for a period of ninety (90) days from the time of proposal acceptance.
- Negligence on the part of the proposer in preparing the proposal confers no rights for the withdrawal of the proposal after it has been accepted by the City.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- Proposals received prior to the time of acceptance will be securely kept, unopened. No responsibility will be attached to an officer or person for the premature opening of a proposal not properly addressed and identified.

5. **RHODE ISLAND SALES TAX:**

The City is exempt from the payment of the Rhode Island Sales Tax under the 1956 General Laws of the State of Rhode Island, 44-18-30, Paragraph 1, as amended.

6. **FEDERAL EXCISE TAXES:**

The City is exempt from the payment of any excise tax or federal transportation taxes. The price bid must be exclusive of taxes and will be so construed.

7. **QUALIFICATION OF PROPOSERS:**

The City may make such investigations, as it deems necessary to determine the ability of the proposer to perform the work. The proposer shall furnish the City with all such information and data for the purpose as may be requested.

8. **ADDENDA AND INTERPRETATIONS:**

No interpretation on the meaning of the Plans, Specifications or other Contract Documents will be made to any proposer orally. Every request for such interpretations should be in writing, addressed to Pare Corporation, 8 Blackstone Valley Place, Lincoln, RI 02865, and to be given consideration must be received at least seven (7) days prior to the date fixed for the acceptance of proposals. Requests for interpretation shall be made to the attention of Peter Georgetti, P.E. (email: pgeorgetti@parecorp.com). Any and all such inquiries, corrections, interpretations, and any supplemental instructions will be in the form of written addenda. All addenda will be posted, at a minimum, on the City's website, in the "Bid Opportunities" section, beneath the specific corresponding solicitation. All addenda become part of the specification document from their effective dates. It is the bidder's responsibility to check for and download any and all posted addenda up to the bid opening date and time.

9. **DELIVERY:**

All Purchases related to this proposal are to be delivered FOB various locations within the City of Woonsocket, delivery to be supplied with the Purchase Order. No extra charges for delivery, handling or other services will be honored. Only inside delivery and set-up, where required, will be accepted. **TAILGATE DELIVERIES WILL BE REFUSED.** The vendor must notify the City of Woonsocket a minimum 24 hours prior to delivery. All claims for damage in transit shall be the responsibility of the successful proposer. The City will not make payment on damaged goods, which must be replaced or adjustments made at the option of the City. The City of Woonsocket is only represented by the Finance Director in these matters and said director shall be the only entity to negotiate any settlements. Deliveries must be made during normal working hours.

The selected proposer will deliver all equipment required by this contract to a location within the Woonsocket Water Division that is designated by the City following award. The selected proposer shall be required to offload equipment and store it at the designated location where it shall remain

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- until it is installed. Deliveries shall be coordinated with the City in advance so that personnel from the Woonsocket Water Division can be made available for such deliveries. Unloading and storing of equipment shall be in such a way that facilitates access by the meter installation contractor that the City anticipates contracting with under a separate bid. Deliveries shall be made in accordance with the scheduling requirements provided in the Contract Documents unless alternate arrangements are made between the City and the successful proposer following contract award.
10. Price Proposal is to include the cost of uncrating and setting in place where noted.
  11. Price Proposal is to include installation where noted.
  12. Proposer must comply with all State Labor Laws for Public Works projects.
  13. The successful proposer must have all current taxes paid which are owed to the City of Woonsocket.
  14. In accordance with Rhode Island General Law 37-13-7, contracts in *excess of \$1,000* shall require compensation based on *prevailing wages* for construction, alteration and/or repair, painting & decorating. The rates are available from the Rhode Island Department of Labor at (401) 462-8580, or access on the web: [www.access.gpo.gov/davisbacon/allstates.html](http://www.access.gpo.gov/davisbacon/allstates.html) for the State forms.
  15. In accordance with Rhode Island General Law 37-13-14, proposers for public works/public building contracts in *excess of \$5,000 shall furnish a performance bond, upon conditional award of the contract*, at 100% of the contract price, conditioned upon faithful performance of the contract. A Labor and Materials Bond, at full contract value, is required upon conditional award of the contract.
  16. The City anticipates awarding the contract in 2023 and bidding the water meter installation contract soon thereafter. It is anticipated that the installation of the meters would commence in the spring of 2024. The Proposer must agree to commence work on or before a date to be specified in a written Notice to Proceed from the City and to fully complete the Project within 800 days of the start date specified in the Notice to Proceed. Substantial completion shall be within 740 days of the start date specified in the Notice to Proceed. In the event that the Contractor fails to complete the work by the established Substantial Completion and Final Completion dates, he agrees to pay the City all damages, which the City may suffer or incur, such as additional engineering, construction inspection and administrative expenses and any other consequential expenses for damages. The Director of Public Works will certify as to the damages incurred and the Contractor shall pay the City the amount thereof promptly on demand. In addition to the above, the Proposer agrees to pay as liquidated damages, the sum of \$1,000.00 a day for no fault of City excessive delay of project beyond the date of completion established under the Contract.
  17. Every proposal will be reviewed in accordance with the evaluation criteria specified within these documents. An evaluation committee will be made up of personnel from the City of Woonsocket and the Engineer. The City intends to award the project based on the Proposal package (i.e., Proposer's Price Proposal and Technical Proposal) that in their opinion provides the City with the best value, based solely on their judgement of Technical and Price Proposals.
  18. The City will not split proposals to make separate selections of meters and meter reading systems and will not accept proposals that propose only meters or only meter reading system. It is the City's intent to award a single contract under this request for proposals.
  19. The City reserves the exclusive right to conduct interviews or request additional information in making their selection. The City may request to interview some proposers, at their sole discretion,

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

following review of Technical and Price Proposals. It is anticipated that a short-list of respondents would be selected for interviews, should these be conducted as part of the evaluation process.

20. Excerpts from the Woonsocket City Code (Section 18-13) and an excerpt from the City Charter allowing for the purchase of meters without the requirement for competitive bidding is provided in Appendix B.
21. Minimum insurance requirements are as follows:

<b>Item</b>	<b>Minimum Limits</b>
Workers' Compensation and Employer's Liability	Statutory workers' compensation coverage as required by law in the State of Rhode Island.  Employers Liability Limits: \$100,000 Each Accident \$500,000 Disease-Policy Limit \$100,000 Disease-Each Employee
General Liability, including Contractors Protective, Products and Completed Operations and Contractual Liability (c.u., collapse and underground coverage to be included. Blasting and explosion coverage required if there will be blasting under the contract.)	\$2,000,000 General Aggregate \$2,000,000 Products and Completed Operations Aggregate \$1,000,000 Personal and Advertising Injury \$1,000,000 Each Occurrence Limit \$ 50,000 Fire Damage Limit \$ 5,000 Medical Payments
Automobile Liability	\$1,000,000 Combined Single Limit for Bodily Injury and Property Damage
Owners Protective Liability	\$1,000,000 Each Occurrence \$2,000,000 Aggregate Bodily Injury and Property Damage

END OF SECTION

**PART 1 - SUMMARY**

**1.1 DOCUMENT INCLUDES**

**A. Invitation**

1. Receipt and Opening of Proposals
2. Intent
3. Work Identified in the Contract Documents
4. Contract Period and Term of Agreement
5. Telegraphic Modification
6. Obligations of the Bidder
7. Prices

**B. Bid Documents and Contract Documents**

1. Definitions
2. Contract Documents Identification
3. Availability
4. Examination
5. Addenda and Interpretations
6. Product/System Substitutions
7. Delivery

**C. Site Assessment**

1. Site Examination
2. Pre-Proposal Conference

**D. Qualifications**

1. Qualifications of the Bidder
2. Subcontractors/Suppliers/Others

**E. Bid Submission**

1. Preparation of Price Proposal
2. Submission of Proposals

**F. Bid Enclosures/Requirements**

1. Bid Security
2. Agreement to Bond
3. Performance Bond and Labor and Material Payment Bond
4. Insurance
5. Proposal Requirements
6. Price Proposal Form Signature
7. Prevailing Wage Rates
8. Tax Exemption

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- 9. Labor Regulations
- 10. Additional Bid Information
  
- G. Offer Acceptance/Rejection
  - 1. Duration of Offer
  - 2. Withdraw of Bids
  - 3. Acceptance of Offer
  
- H. Laws, Ordinances and Codes
  
- I. Time of Completion and Liquidated Damages
  
- J. Permits

**PART 2 - INVITATION**

**2.1 RECEIPT AND OPENING OF PROPOSALS**

- A. Proposal Packages will be accepted and time stamped upon receipt in the Finance Department, Office of Purchasing, City of Woonsocket, 169 Main Street, Woonsocket, RI 02895 until the time indicated on the attached Request for Proposals, for the commodities, equipment, or services listed in the Specifications. Price Proposals will be opened and publicly read aloud at the time and date identified in the advertisement.
  
- B. Each Proposal Package shall consist of the following:
  - 1. Two copies of Technical Proposal in a sealed envelope labeled “Technical Proposal for Water Meters and Fixed Network AMI System - 2023”. Technical Proposal package shall include the forms and enclosures described in Section 00410.
  - 2. Two copies of Price Proposal in a sealed envelope labeled “Price Proposal for Water Meters and Fixed Network AMI System - 2023”. Price Proposal package shall include completed Price Proposal Form as well as Bid Bond and any required forms and enclosures described in Section 00400.
  - 3. A physical sample of the proposed meter.
  
- C. Any Proposal received after the time and date specified shall not be considered, by messenger or by mail, even if it is determined by Owner or the Engineer that such non-arrival before the time set for opening was due solely to delay in the mails for which the Proposer is not responsible. Conditional or qualified bids will not be accepted.

**2.2 INTENT**

- A. The intent of this Request for Proposals (RFP) is to solicit Price Proposals and Technical Proposals for the purchase of water meters and procurement of fixed network radio frequency (RF) advanced metering infrastructure (AMI) system software and hardware to replace the City’s existing RF meter reading system.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**2.3 WORK IDENTIFIED IN THE CONTRACT DOCUMENTS**

- A. Scope: The scope of this project includes, but is not limited to, furnishing and supplying water meters of various size up to 2-inches, as specified; furnishing and supplying encoders/registers; furnishing and supplying RF modules; conducting a propagation study to determine required number of data collection units (DCUs) and repeaters; and furnishing, supplying, and installing applicable AMI system hardware and software as required for a fully functional and operational meter reading system. The project does not include the installation of furnished meters. It is the City's intent to procure those services under a separate Invitation to Bid.
- B. Project Location: City of Woonsocket, Rhode Island.
- C. The Owner hereby reserves the right, at any time, or from time to time, to order additions, deletions, or revisions in the work to be authorized through a written amendment (change order), which shall be subject to the provisions in General Conditions - Article 10.

**2.4 CONTRACT PERIOD AND TERM OF AGREEMENT**

- A. The overall contract period is eight hundred (800) calendar days from date set in the Notice to Proceed (excluding the technical support services requested by Owner). Substantial completion shall be seven hundred forty (740) days following the Notice to Proceed, and final completion shall be eight hundred (800) calendar days from the Notice to Proceed.

**2.5 TELEGRAPHIC MODIFICATION**

- A. Telephonic, telegraphic, or oral submissions, amendments, or withdrawals will not be accepted.

**2.6 OBLIGATIONS OF THE PROPOSER**

- A. At the time of opening of Proposals, each Proposer will be presumed to have inspected the Specifications and Contract Documents (including all Addenda), which have been issued to Proposer by email or other means. The failure or omission of any Proposer to receive or examine any form, instrument, or document or to inspect any item specified as a Trade-in shall in no way relieve any Proposer from any obligation with respect to his Proposal.
- B. Any exceptions or deviations from the provisions contained in this Specification must be explained in detail and attached to the Proposal. If such deviations do not depart from the intent of this notice and are in the best interest of the Owner, the Proposal will receive careful consideration.

**2.7 PRICES**

- A. Proposers shall state the proposed price in the manner as designated in the Price Proposal Form. In the event that there is a discrepancy between unit prices and the extended totals, the unit price shall govern. In the event that there is a discrepancy between the price written in words and written in figures, the prices written in words shall govern.



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- B. Proposers agree that the price in this Proposal shall be irrevocable for ninety (90) days, or until the Proposal is awarded by the City of Woonsocket. After award by the City of Woonsocket, said prices shall then remain firm for the duration of the Contract.

**PART 3 - BID DOCUMENTS AND CONTRACT DOCUMENTS**

**3.1 DEFINITIONS**

- A. Contract Documents: Defined in EJCDC 1910-8 Article 1, including issued Addenda.
- B. Proposer: Entity submitting a proposal in response to this Request for Proposals.
- C. Price Proposal: Monetary sum identified by the Proposer in the Price Proposal Form.
- D. Owner: City of Woonsocket
- E. Engineer: Pare Corporation

**3.2 CONTRACT DOCUMENTS IDENTIFICATION**

- A. The Contract Documents are identified by the project title, “Water Meters and Fixed Network AMI System - 2023”, as prepared by the Engineer, Pare Corporation located at 8 Blackstone Valley Place, Lincoln, RI. Contract Documents will be comprised of the Price Proposals and Technical Proposals requested by this solicitation.

**3.3 AVAILABILITY**

- A. Additional copies of Contract Documents may be requested via email from the Engineer to the attention of Peter Georgetti, P.E. ([pgeorgetti@parecorp.com](mailto:pgeorgetti@parecorp.com)) on or after **November 7, 2023**
- B. Contract Documents are made available only for the purpose of obtaining offers for this project. Their use does not grant a license for other purposes.

**3.4 EXAMINATION**

- A. Contract Documents may be viewed at the office of the Engineer.
- B. Upon receipt of Contract Documents verify that documents are complete. Notify Engineer should the documents be incomplete.
- C. Immediately notify the Engineer upon finding discrepancies or omissions in the Contract Documents.

**3.5 ADDENDA AND INTERPRETATIONS**

- A. No interpretation on the meaning of the Contract Documents will be made to any Proposer orally. Every request for such interpretations should be in writing, addressed to Pare Corporation, 8 Blackstone Valley Place, Lincoln, RI 02865, and to be given consideration must be received at least seven (7) days prior to the date fixed for the opening of the Price Proposals. Requests for interpretation shall be made to the attention

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

of Peter Georgetti, P.E. ([pgeorgetti@parecorp.com](mailto:pgeorgetti@parecorp.com)).

- B. Email transmissions will be accepted; however, respondents are solely responsible to verify that requests for interpretations made by email are received by the Engineer ([pgeorgetti@parecorp.com](mailto:pgeorgetti@parecorp.com)).
- C. Any and all interpretations, and supplemental instructions, which, if issued, will be emailed to all prospective Proposers (at the respective address furnished by the Proposer for such purpose), not later than forty-eight (48) hours prior to the date fixed for the opening of Proposals (unless such addenda postpones the opening of Proposals). Failure of Proposer to receive any such addendum or interpretations shall not relieve any Proposer from obligation under this Proposal as submitted. All addenda so issued shall become part of the Contract Documents.

**3.6 PRODUCT/SYSTEM SUBSTITUTIONS**

- A. Where the Contract Documents stipulate a particular Product, substitutions will be considered by the Engineer in advance of opening of Proposals if requested up to ten (10) days before receipt of Proposals.
- B. The submission shall provide sufficient information to determine acceptability of such products.
- C. When a request to substitute a Product is made, the Engineer may approve the substitution and will issue an Addendum to known Proposers.
- D. In submission of substitutions to products specified, Proposers shall include in their Proposal, any changes required in the Work and changes to Contract Time and Contract Price to accommodate such substitutions. A later claim by the Proposer for an addition to the Contract Time or Contract Price because of changes in Work necessitated by use of substitutions shall not be considered.
- E. Product substitutions may also be submitted by proposer as part of their Technical Proposal. These substitutions will be evaluated by Owner and Engineer. These Contract Documents are not intended to view one qualified, responsive proposer more favorably over another, but Proposer is made aware that there is no guarantee that such product substitutions will be found acceptable by Owner. The Owner intends to make an award that they perceive to be in the City's best interest based on the selection criteria identified in these Contract Documents.

**3.7 DELIVERY**

- A. All Purchases related to this Proposal are to be delivered FOB to the City of Woonsocket, delivery to be supplied with the Purchase Order. No extra charges for delivery, handling, or other services will be honored. Only inside delivery and set-up, where required, will be accepted. **TAILGATE DELIVERIES WILL BE REFUSED.** The vendor must notify Owner twenty-four (24) hours prior to delivery. All claims for damage in transit shall be the responsibility of the successful Proposer. The Owner will not make payment on damaged goods. Damaged goods must be replaced or adjustments made at the option of the Owner. The Owner shall be the only entity to negotiate any settlements. Deliveries must be made during normal working hours.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- B. Proposed price as indicated on the Price Proposal Form is to include the cost of uncrating and setting in place where noted.
- C. Proposed price as indicated on the Price Proposal Form is to include installation where noted.
- D. It is the Owner's intent to accept multiple deliveries of meters over the length of this contract. The Owner does not have a suitable location to store all meters to be used for this project. The selected proposer will deliver all equipment required by this contract to a location within the Woonsocket Water Division that is designated by the City following award. The selected proposer shall be required to offload equipment and store it at the designated location where it shall remain until it is installed. Deliveries shall be coordinated with the City in advance so that personnel from the Woonsocket Water Division can be made available for such deliveries. Unloading and storing of equipment shall be in such a way that facilitates access by the meter installation contractor that the City anticipates contracting with under a separate bid. Deliveries shall be made in accordance with the scheduling requirements provided in the Contract Documents unless alternate arrangements are made between the City and the successful proposer following contract award.

**PART 4 - SITE ASSESSMENT**

**4.1 SITE EXAMINATION**

- A. Not applicable.

**4.2 PRE-PROPOSAL CONFERENCE**

- A. A Pre-Proposal Conference has been scheduled **for 1:00 pm on November 28, 2023.** The Pre-Proposal Conference will be held at the **Woonsocket Water Treatment Facility, 300 Jillson Avenue, in Woonsocket.** The Pre-Proposal Conference is not mandatory.
- B. All general Proposers and major subcontractors are invited.
- C. Representatives of the Owner and Engineer will be in attendance.
- D. Information relevant to the Contract Documents will be recorded in an Addendum, if applicable, and issued to all known Contract Document recipients.

**PART 5 - QUALIFICATIONS**

**5.1 QUALIFICATIONS OF PROPOSER**

- A. The Owner may make such investigations as deemed necessary to determine the ability of the Proposer to perform the Work, and the Proposer shall furnish to Owner all such information and data for this purpose as Owner may request, including required forms and questionnaires as part of their Technical Proposal submission.
- B. The Owner reserves the right to reject any Proposal if the evidence submitted by, or

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

investigation of, such Proposer fails to satisfy the Owner or the Engineer that such Proposer is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.

**5.2 SUBCONTRACTORS/SUPPLIERS/OTHERS**

- A. The Owner or Engineer reserves the right to reject a proposed Subcontractor for reasonable cause.
- B. Refer to Article 6.06 of EJCDC General Conditions.

**PART 6 – PROPOSAL SUBMISSION**

**6.1 PREPARATION OF PRICE PROPOSAL**

- A. Each Price Proposal must be submitted on the prescribed form and submitted in duplicate. All blank spaces for prices must be filled in ink or typewritten, both in words and figures. All Proposals must be prepared in conformity with, and shall be based on and submitted subject to, all requirements of the Contract Documents together with all Addenda thereto.
- B. Erasures or other changes must be explained or noted over the signature of the Proposer.
- C. Each Proposal must be submitted in sealed envelopes, clearly labeled in accordance with the requirements stipulated in these Contract Documents, so as to guard against opening prior to the time set therefore.
- D. Supplemental information, drawings, warranties, literature and material to be provided with the Proposal shall be on the Proposer's own form.

**6.2 SUBMISSION OF PROPOSALS**

- A. Envelopes containing Proposals must be sealed and addressed to the Finance Department, Office of Purchasing, City of Woonsocket, 169 Main Street, Woonsocket, Rhode Island 02895 and must be marked with the name and address of the Proposer in the lower left hand corner.
- B. Any Proposer may withdraw his Proposal by written request at any time prior to the advertised time for opening. Telephone bids, faxed bids, amendments, or withdrawals will not be accepted.
- C. Unless otherwise specified, no Proposal may be withdrawn for a period of ninety days (90) from the time of opening of Proposals.
- D. Negligence on the part of the Proposer in preparing the Proposal confers no rights for the withdrawal of the Proposal after it has been opened.
- E. Proposals received prior to the time of opening will be securely kept, unopened. No responsibility will be attached to an officer or person for the premature opening of a proposal not properly addressed and identified.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- F. It is not intended for the technical requirements included in these specifications to exclude any Proposer that can meet the overall intent of the Project. Deviations from these specifications, including where references to requirements that “must” or “shall” be met are listed, will be considered except where minimum evaluation criteria has been identified. Any deviation from the Contract Documents **MUST BE NOTED IN WRITING AND CLEARLY INDICATED AS PART OF THE TECHNICAL PROPOSAL**. The Proposer shall clearly indicate how the Proposal will deviate from Specifications, yet meet or exceed the intent of the project, in order for Proposal to be considered.

**PART 7 - BID ENCLOSURES/REQUIREMENTS**

**7.1 BID SECURITY**

- A. Each Price Proposal must be accompanied by Bid security (security deposit) in the form of a Bid Bond, payable to the City of Woonsocket, in the amount of five percent (5%) of the total amount Bid. Bid security of the successful Proposer will be retained by the Owner until Bid requirements are met or forfeited to the Owner upon Proposer's failure to perform contract obligations.
- B. Any successful Proposer withdrawing his Proposal package subsequent to opening of Proposals shall forfeit his Bid deposit.
- C. Include the cost of Bid Security under the Base Bid in the Price Proposal.
- D. Bid Bonds shall remain valid and in force for the entire Bid eligibility period (i.e., ninety [90] days from opening of Proposals).

**7.2 AGREEMENT TO BOND**

- A. Submit with the Proposal all surety requirements, provisions, and enclosures.

**7.3 PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND**

- A. The successful Proposer will be required to furnish Owner with a Performance Bond and a Labor and Material Payment Bond, each in the amount of one hundred percent (100%) of the contract price, as security for faithful performance of the Contract and executed by a surety company licensed to do business in the State of Rhode Island and approved by the City of Woonsocket.
- B. The failure of the successful Proposer to supply the required Bonds within a time specified or within such extended period as the City of Woonsocket may grant based upon reasons determined sufficient by Owner, shall constitute a default, and the City of Woonsocket may award the contract to another Proposer or re-advertise for Proposals.

**7.4 INSURANCE**

- A. The Contractor shall assume responsibility and liability for all injuries to persons or damages to property, directly or indirectly due to, or arising out of, his operations under the contract and shall be responsible for the proper care and protection of all work performed until completion and final acceptance by the City of Woonsocket.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- B. The Contractor shall also indemnify and save harmless the City of Woonsocket against any and all claims of whatever kind and nature due to, or arising out of, his breach or failure to perform any of the terms, conditions, or covenants of the contract resulting from acceptance of his Proposal.
- C. The Contractor shall furnish certificates of insurance from companies acceptable to the City of Woonsocket. All Insurance Companies listed on certificate must be licensed to do business in the State of Rhode Island. The Contractor shall provide a certificate of insurance as a supplement to the Price Proposal per Section 00400 and as specified in accordance with these Contract Documents. Contracts of insurance (covering all operations under this contract) shall be kept in force until the Contractor's work is accepted by Owner.
- D. The Contractor shall secure, pay for, and maintain insurance as necessary to protect himself/herself against loss of owned or rented capital equipment and tools, with provision for waiver of subrogation against the Owner.
- E. The Contractor shall require a similar insurance in the above amounts to be taken out and maintained by each subcontractor. The Contractor shall be fully responsible for the acts and omissions of its subcontractors and of persons employed either directly or indirectly by them, as it is for the acts and omissions of persons directly employed by the Contractor. Nothing contained in the contract shall create any contractual relation between any subcontractor and the City of Woonsocket.

**7.5 PROPOSAL REQUIREMENTS**

- A. Complete all requested information on the Price Proposal and Technical Proposal forms and provide all required attachments.

**7.6 PRICE PROPOSAL FORM SIGNATURE**

- A. The Price Proposal Form shall be signed by the Proposer, as follows:
  - 1. Sole Proprietorship: Signature of sole proprietor in the presence of a witness who will also sign. Insert the words "Sole Proprietor" under the signature. Affix seal.
  - 2. Partnership: Signature of all partners in the presence of a witness who will also sign. Insert the word "Partner" under each signature. Affix seal to each signature.
  - 3. Corporation: Signature of a duly authorized signing officer(s) in their normal signatures. Insert the officer's capacity in which the signing officer acts, under each signature. Affix the corporate seal. If the Proposal is signed by officials other than the President and Secretary of the company, or the President/Secretary/Treasurer of the company, a copy of the by-law resolution of the Board of Directors authorizing them to do so, must also be submitted with the Price Proposal Form in the sealed Price Proposal.
  - 4. Joint Venture: Each party of the joint venture shall execute the Price Proposal Form under their respective seals in a manner appropriate to such party as described above, similar to the requirements of a Partnership.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**7.7 PREVAILING WAGE RATES**

- A. Prices must reflect adherence to the provisions of State Labor Laws concerning payment of prevailing wages (see R.I.G.L. § 37-13-1 et seq. as amended) when labor is involved. The rates of pay set forth in these provisions are the minimums to be paid during the life of the contract. Proposers shall inform themselves as to the local labor conditions such as the length of workday and workweek, overtime compensation, health and welfare contributions, labor supply, and prospective changes or adjustment of rates.
- B. In addition to adherence to the provisions of State Labor Laws, Contractors must also comply with all aspects of the Davis Bacon Act, which requires Contractors and Subcontractors performing construction, alteration, and repair (including painting and decorating) work under federal or District of Columbia contracts in excess of \$2,000 to pay their laborers and mechanics no less than the prevailing wage and fringe benefits for the geographic location.

**7.8 TAX EXEMPTION**

- A. Rhode Island Sales and Use Tax: Materials and equipment purchased for installation under this Contract are exempt from the Rhode Island Sales Tax. The exemption from the Sales Tax shall be taken into account by the Proposer when preparing and submitting their Proposal.
- B. Rhode Island Sales Tax: The City of Woonsocket is exempt from the payment of Rhode Island Sales Tax under the 1956 General Laws of the State of Rhode Island, 44-18-30 Paragraph 1, as amended.
- C. Federal Excise Taxes: The City of Woonsocket is exempt from the payment of any excise or federal transportation taxes. Prices submitted must be exclusive of taxes and will be so construed.

**7.9 LABOR REGULATIONS**

- A. The following paragraphs regarding labor regulations shall be included and become part of these Contract Documents:
  - 1. Non-resident Contractors are subject to Section 44-1-6 of the Rhode Island General Laws, as amended. (OUT OF STATE CONTRACTORS).
  - 2. The successful Proposer will be required to comply with the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor Regulations (29 CFR, Part 5).
  - 3. The successful Proposer will be required to comply with the Safety and Health Regulations (29 CFR, Part 1926 and all subsequent amendments) as promulgated by the Department of Labor.
  - 4. The successful Proposer will be required to comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352).
- B. Proposers must, if required, submit a compliance report concerning their employment practices and policies in order to maintain their eligibility to receive award of the Contract.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- C. Additional labor requirements, such as prevailing wage requirements and minority and woman-owned business participation, are stipulated in the Contract Documents.

**7.10 ADDITIONAL BID INFORMATION**

- A. The Owner requires that Proposers complete the required forms enclosed herein and submit them as part of their sealed Price Proposal or sealed Technical Proposal, as applicable. Failure to comply with these stipulations will be grounds for disallowing Proposals at the Owner's sole discretion.

**PART 8 - OFFER ACCEPTANCE/REJECTION**

**8.1 DURATION OF OFFER**

- A. Proposals shall remain open to acceptance and shall be irrevocable for a period of ninety (90) days after the RFP closing date.

**8.2 WITHDRAWAL OF PROPOSALS**

- A. Proposals may be withdrawn personally or by written request at any time prior to the time specified for the opening. Proposals may be modified in the same manner. Negligence on the part of the Proposer in preparing the Proposal confers no right of withdrawal or modification of his Proposal after such Proposal has been opened.

**8.3 ACCEPTANCE OF OFFER**

- A. The Owner reserves the right to accept or reject any or all offers.
- B. After acceptance by the Owner, a written Bid Acceptance, letter of Contract Award, and Notice to Proceed will be issued to the successful Proposer.

**PART 9 - LAWS, ORDINANCES, AND CODES**

- A. All applicable Federal and State Laws, Ordinances, and Codes of the City of Woonsocket and Regulations of all authorities having jurisdiction over this Project shall apply to this contract the same as though written herein in full.
- B. Owner will not award the Contract to any Proposer who is, at the time, ineligible under the provisions of any applicable regulations issued by the Secretary of Labor, United States Department of Labor, or is not qualified under applicable Ordinances of the City of Woonsocket, or the laws of the State of Rhode Island. If the successful Proposer is a corporation NOT authorized to do business in the State of Rhode Island, it shall qualify to do business in the State of Rhode Island, immediately after the award of the contract.
- C. The successful Proposer must provide proof of liability and worker's compensation insurance coverage in the aggregate minimum amount as specified herein. Such proof of insurance must specify Owner as additionally insured and as certificate holder.



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**PART 10 - TIME OF COMPLETION AND LIQUIDATED DAMAGES**

- A. The Bidder must agree to commence Work on or before the date specified in the written Notice to Proceed of the Owner, and to substantially and fully complete the Project within the timeframes established herein. The Bidder must agree also to pay as liquidated damages, the sum of \$1,000.00 a day for no fault of City excessive delay of project beyond the completion date established in the Contract.

**PART 11 - PERMITS**

- A. Not applicable

END OF SECTION

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 00310**

**PRICE PROPOSAL FORM**

To: City of Woonsocket – Finance Department  
169 Main Street  
P.O. Box B  
Woonsocket, Rhode Island 02895

Project: Woonsocket Water Division  
Water Meters and Fixed Network AMI System - 2023  
November 2023  
Pare Project No. 15028.02  
Woonsocket Bid No. 6040

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

Submitted by:  
(full name)

\_\_\_\_\_  
(full address)

**1.00 OFFER**

**Base Cost Proposal**

Having examined the Place of the Work and all matters referred to in the Instructions to Bidders, Information for Bidders, and the Contract Documents as a whole as prepared by Pare Corporation, Engineer for the above mentioned project, we, the undersigned, hereby offer to enter into a Contract to perform the Work reflected by the Price Proposal (Bid Item Nos. 1 – 9) for the Price of:

\$

\_\_\_\_\_  
(Figures)

\_\_\_\_\_  
(Total price in words) dollars, in lawful money of the United States of America.

The Owner hereby reserves the right to reject any or all bids and to select the bid that best serves the interest of the City of Woonsocket.

Attention is called to information contained in Section 01025 - Measurement and Payment, for information concerning Price Proposal Form Items.

We have included herewith, the required security deposit, Bid Bond, as required by the Instruction to Bidders in an amount equal to 5% of the total Price Proposal.

**2.00 EXPERIENCE/SUBMITTALS**

- A. The Owner intends on awarding a Contract based on their assessment of Proposals and determination of the most advantageous Proposal package that in the opinion of the City, provides the best value based solely on their judgement of Price Proposals and Technical Proposals. This will include evaluation of submitted Technical Proposals, Price Proposals, and

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

supplemental information requested by Owner and/or included by Proposer. Requirements for Price Proposal attachments and Technical Proposal components are described in Instructions for Proposers.

- B. Technical Proposals will be evaluated in accordance with the criteria set forth in Section 00410.
- C. The Owner may make such additional investigations as deemed necessary to determine the ability of the Proposer to perform the Work, and the Proposer shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any Proposal if the evidence submitted by, or investigation of, such Proposer fails to satisfy the Owner that such Proposer is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

3.00      UNIT PRICES

**PRICE PROPOSAL FORM**

NOTE: THE UNIT PRICE FOR EACH ITEM MUST BE WRITTEN IN WORDS AND FIGURES. IN CASE OF DISCREPANCY, THE AMOUNT SHOWN IN WORDS WILL GOVERN.

ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL COST
1.	Mobilization and Demobilization	LS	1	_____	_____
TOTAL PRICE IN WORDS: _____					
2.	Furnish 5/8-inch Non-Displacement Water Meter and RF Module	EA	8,834	_____	_____
TOTAL PRICE IN WORDS: _____					
3.	Furnish 1-inch Non-Displacement Water Meter and RF Module	EA	407	_____	_____
TOTAL PRICE IN WORDS: _____					
4.	Furnish 1.5-inch Non-Displacement Water Meter and RF Module	EA	68	_____	_____
TOTAL PRICE IN WORDS: _____					
5.	Furnish 2-inch Non-Displacement Water Meter and RF Module	EA	139	_____	_____
TOTAL PRICE IN WORDS: _____					

## PRICE PROPOSAL FORM

ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL COST
6.	Fixed Network Base Station, Collectors, and Communication Equipment for Complete and Operational System	LS	1		

TOTAL PRICE IN WORDS: \_\_\_\_\_

7.	Software/Hardware Components for Complete and Operational Fixed Network AMI System	LS	1	_____	_____
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TOTAL PRICE IN WORDS: \_\_\_\_\_

8.	Owner Staff Training for Fixed Network AMI System	LS	1		
----	---	----	---	--	--

TOTAL PRICE IN WORDS: \_\_\_\_\_

9.	Annual Operation and Maintenance Cost	LS	1		
----	---------------------------------------	----	---	--	--

TOTAL PRICE IN WORDS: \_\_\_\_\_

Dollars

and \_\_\_\_\_ Cents                      \$ \_\_\_\_\_  
(in words)                                      (in figures)

November 2023

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

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10. Add Alternate 1-Furnish and Install Distribution Side Automated Leak Detection System	LS	1	<hr/>
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TOTAL PRICE IN WORDS: 

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**4.00 ACCEPTANCE**

This offer shall be open to acceptance and is irrevocable for ninety (90) days from the Proposal closing date.

If this Proposal is accepted by the Owner within the time period stated above, we will:

Execute the Agreement within fifteen (15) days of receipt of Notice of Award.

Furnish the required bonds within fifteen (15) days of receipt of Notice of Award in the form described in Information to Proposers.

Commence work within fifteen (15) days after written Notice to Proceed.

If this Proposal is accepted within the time stated, and we fail to commence the Work or we fail to provide the required Bond(s), the security deposit shall be forfeited as damages to the Owner by reason of our failure, limited in amount to the lesser of the face value of the security deposit or the difference between this Proposal and the Proposal upon which the Contract is signed.

In the event our Proposal is not accepted within the time stated above, the required security deposit shall be returned to the undersigned, in accordance with the provisions of the Instructions to Proposers; unless a mutually satisfactory arrangement is made for its retention and validity for an extended period of time.

**5.00 CONTRACT TIME**

If this Proposal is accepted, the Proposer hereby agrees to commence work under this Contract on or before a date to be specified in the Notice to Proceed and to substantially complete the project within 740 calendar days.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**6.00      ADDENDA**

The following Addenda have been received. The modifications to the Contract Documents noted therein have been considered and all costs thereto are included in the Price Proposal.

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

**7.00      APPENDICES**

Proposers shall submit the following, which shall become an integral part of the Proposal package.

1. Submit Documents 00400 - Supplements to Price Proposal Form in accordance with the procedure stipulated in Instructions for Proposers.
2. Submit Documents 00410 – Technical Proposal forms, in accordance with the procedure stipulated in Instructions for Proposers.

**8.00      PRICE PROPOSAL FORM SIGNATURE(S)**

The Corporate Seal of

\_\_\_\_\_  
(Proposer - please print the full name of your Proprietorship, Partnership, or Corporation)

was hereunto affixed in the presence of:

\_\_\_\_\_  
(Authorized signing officer

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

(Seal)

\_\_\_\_\_  
(Authorized signing officer

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

If the Proposal is a joint venture or partnership, add additional forms of execution for each member of the joint venture in the appropriate form or forms as above.

END OF SECTION

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 00400**

**SUPPLEMENTS TO PRICE PROPOSAL**

To: City of Woonsocket – Finance Department  
169 Main Street  
P.O. Box B  
Woonsocket, Rhode Island 02895

Project: Woonsocket Water Division  
Water Meter and Fixed Network AMI System - 2023  
November 2023  
Pare Project No. 15028.02  
Woonsocket Bid No. 6040

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

Submitted by:  
(full name)

\_\_\_\_\_  
(full address)

In accordance with Section 00200 - Instructions for Proposers, and Section 00310 – Price Proposal Form, we include the Supplements to Price Proposal appendices listed below. The information provided shall be considered an integral part of the Price Proposal.

1. Bid Bond in the amount of 5% of the total Price Proposal.
2. Certificate of Insurance (refer to Section 00200 Part 7.4).

END OF SECTION



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 00410**

**TECHNICAL PROPOSAL REQUIREMENTS**

To: City of Woonsocket – Finance Department  
169 Main Street  
P.O. Box B  
Woonsocket, Rhode Island 02895

Project: Woonsocket Water Division  
Water Meters and Fixed Network AMI System - 2023  
November 2023  
Pare Project No. 15028.02  
Woonsocket Bid No. 6040

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

Submitted by:  
(full name)

\_\_\_\_\_  
(full address)

In accordance with Section 00200 – Instructions for Proposers, and Section 00310 – Price Proposal Form, we include the following forms and supplements which comprise our Technical Proposal for the City of Woonsocket Water Meters and Fixed Network AMI System - 2023 project.

1. Reference Statement (complete form and submit as Supplement 00410-A).
2. Technical Questionnaire (complete form and requested attachments and submit as Supplement 00410-B).
3. Long term operation and maintenance cost summary (complete form and submit as Supplement 00410-C).
4. Propagation Study Report.

Proposer may provide more information or additional sheets to any of the supplements identified in this section to describe their technical qualifications, except where limits on submission content or number of pages are indicated.

**Technical requirements are provided in Sections 15100 and 15200 of these specifications. It is not intended that these specifications or requirements exclude Proposers from submitting a Proposal based on proprietary characteristics. Proposals that meet the overall intent of this project in the opinion of the Owner or their representative, which is to furnish new water meters and a fixed network AMI system, will be considered. Proposers shall include in their Technical Proposal clear descriptions of specific characteristics of their proposed system that differ from the requirements in these specifications and shall state why their proposed system generally meets or exceeds the intent of this project.**

Minimum criteria required for technical proposals to be considered are included herein.

By submitting a Proposal, Proposer acknowledges and accepts the criteria in which proposals will be evaluated and compared.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**TECHNICAL PROPOSAL – MINIMUM SUBMISSION REQUIREMENTS**

1. The proposed system must operate with two-way communication, defined as communication to the RF module from the network control computer and to the network control computer from the RF module for on demand reads, reprogramming, and other tasks.
2. The Proposer must provide a minimum of 3 references for the proposed AMI system which Owner may contact during the Proposal evaluation process. References must have a minimum of 5,000 endpoints, all of which for a potable water system. At least one reference shall have a minimum of 9,000 endpoints, to be similar in size to the Owner's system. These reference systems must be currently in operation collecting meter readings and other data from installed endpoints. References must be submitted on the Reference Statement. It is preferable that at least 1 reference be willing to conduct a site visit for the selection committee to show a similar system that is currently installed and operating.
3. The Proposer must provide the most recent annual reports for all companies included in the proposal as evidence of each company's financial capacity to undertake this project.
4. The Proposer or any proposed subcontractor shall not have failed to complete any project, ever been removed from any project, or ever filed for bankruptcy within the last five (5) years.
5. Propagation Study Report that sufficiently identifies the necessary siting and deployment of Data Collection Units (DCUs) and/or repeaters required to remotely read substantially all meters across the entirety of the system. The proposer's system shall be capable of reading 100% of the meters in the distribution system.
6. The proposed AMI system must be capable of reading various industry-leading meters so that the City has flexibility in future meter purchases as well as flexibility in reading large commercial/industrial meters that are not part of this contract.
7. All minimum warranties, guarantees, and accuracy standards stipulated herein have been met or exceeded, or justification as to why they cannot be met are clearly described.
8. Proposed parts and components shall comply with NSF 61 and appropriate AWWA standards, as applicable and where required, including lead-free construction.
9. Technical Proposal forms and supplements have been completed and submitted separate from Price Proposal.

Proposers that fail to complete the minimum submission requirements listed above may be found "non-responsive" at the sole discretion of the City of Woonsocket.

**PROPOSAL EVALUATION CRITERIA**

Price Proposals and Technical Proposals will be evaluated by an Evaluation Committee consisting of individuals made up from the City and the Engineer. Technical proposals that are concise and clearly identify conformance to the specifications, as well as proposed deviations from the specifications, will be evaluated favorably. The City will select the Proposal package that, in their opinion, provides them the best value based solely on their judgment of the Price Proposals and Technical Proposals received.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

Criteria that will be considered in the review of Technical Proposals is summarized below.

Project Approach and Understanding

Technical proposals that clearly and concisely demonstrate the Proposer's overall approach and an understanding of the City's goals and objectives for this project will be reviewed most favorably. The City's primary goals in implementing this project are as follows:

1. Purchasing new meters and encoders to replace the existing meters and encoders which have been in service for 15 years and are reaching the end of their useful life.
2. Replacing the existing radio frequency meter reading system, which is outdated and no longer supported by the manufacturer.
3. Selecting an AMI system that is user friendly and easy to use while providing the data collection and analytics tools that are common among leading manufacturers in the industry.
4. Selecting a system with leak detection capabilities, both at the service and with the ability to detect leaks in the distribution system.
5. Selecting a system that operates on a cloud-based system through a Software-as-a-Service (SaaS) type solution, and one that is compatible with the City's current billing software (Opel) and other leading utility billing platforms.
6. Selecting a system that requires relatively few data collection units and other hardware installations in the distribution system.
7. Selecting a system that maintains the City's flexibility in selecting future replacement meters and encoders.
8. Selecting a system that provides the City and customers easy-to-use interfaces on multiple platforms (secure website, mobile phone application, etc.).
9. Selecting a system that is both economical yet one that meets the City's objectives.

Technical Questionnaire

The Technical Questionnaire shall be filled out completely and properly. The Technical Questionnaire shall demonstrate to the evaluation committee that the Proposal clearly meets the technical requirements of the project specifications, or deviations have been noted and clearly explained. Deviations from the technical requirements that are clearly explained will be considered, provided that the overall intent of the project is still met. It is not the City's intent that the technical requirements stipulated herein and throughout this Project Manual convey a preference to one manufacturer's system over another nor are they intended to disqualify any one Proposer or group of Proposers.

Reference Statement

The Reference Statement form shall be filled out completely and properly to demonstrate that the Proposer is qualified to complete this project. References have a minimum of 5,000 endpoints, all of which for a potable water system. At least one reference has a minimum of 9,000 endpoints to demonstrate the Proposer's experience and past performance on a water distribution system similar in size to the City's system. These reference systems must be currently in operation collecting meter readings and other data from installed endpoints. References should be willing to discuss their system with the evaluation committee. It is preferable that at least 1 reference be willing to conduct a site visit for the selection committee to show a similar system that is currently installed and operating.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

Operation and Maintenance Cost Summary

The City wishes to understand the typical long-term operation and maintenance costs that can be anticipated in addition to the one-time fixed costs provided in Proposer's Price Proposal. The City has elected to make this a technical evaluation criterion. As such, the Operations and Maintenance Cost Summary shall be filled out completely, accurately, and properly with no missing or misleading information to be viewed most favorably.

Propagation Study Report

Proposer shall provide a report summarizing the results of their propagation study, identifying the number and locations of data collection units (DCUs) anticipated to be required given the size and geography of the distribution system. A map showing the approximate limits of the distribution system, as well as the locations of key infrastructure components in the system, is appended to the Project Manual. An Excel-based listing of addresses in the distribution system is provided in Appendix A.

END OF SECTION

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SUPPLEMENT 00410-A  
REFERENCE STATEMENT**

**(Fill Out Completely)**

**A. Organization providing Residential Water Meters & Fixed Network Automatic Meter Reading System**

The undersigned offers the following information as evidence of his qualifications to perform the work as bid upon according to all requirements of the contract documents:

1. State how long you have been in business under the same business name and owner/management structure: \_\_\_\_\_years.
2. Have you ever been **terminated** on an awarded contract, or has the proposer **otherwise failed to complete** any work awarded? \_\_\_\_\_. If "yes", attach your description of the circumstances on a separate sheet. Include names and telephone numbers of customer(s): the City will expand the list of references to include these specific customers, if any.
3. Have you, within the previous five (5) years, performed work for the City of Woonsocket?  
\_\_\_\_\_ (yes or no)
4. List on this form three (3) recent contracts under which you provided water meters and/or fixed network automatic meter reading systems of the type required by this contract and of the type proposed by the Proposer. If your answer to Question #3 above is "YES", the City of Woonsocket, Rhode Island shall be listed as an additional reference. As part of the Proposal Evaluation, the City of Woonsocket may contact any reference. They may also select one reference to visit and you will be provided with the opportunity to attend the visit. [Use a separate sheet to identify additional references, only if you desire. By electing to provide additional references, you are permitting the City the option of expanding your list of references beyond the three (3) required to include some or all of the additions, even though other proposers may submit only the required three (3).]
5. Have you, within the previous five (5) years, provided an automatic meter reading system that operates in conjunction with Opal billing software, the City's current utility billing software? (yes or no). If "yes", list on this form one recent contract under which you worked with this billing software system.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**B. Recent Contracts:**

1. Project: \_\_\_\_\_  
\_\_\_\_\_

Contract Amount: \_\_\_\_\_

Manufacturer and Number of Meters: \_\_\_\_\_

Range of Meter Size and Type: \_\_\_\_\_

AMR System Manufacturer: \_\_\_\_\_

Number and Type of RF Modules: \_\_\_\_\_

Number of Data Collection Units/Repeaters: \_\_\_\_\_

Owner's Utility Billing System: \_\_\_\_\_

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

City/Town/Owner: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Telephone No.: (       ) \_\_\_\_\_

Is this system currently in operation? \_\_\_\_\_

Is the reference willing to conduct a site visit for the selection committee to demonstrate the operation of the system? \_\_\_\_\_

2. Project: \_\_\_\_\_  
\_\_\_\_\_

Contract Amount: \_\_\_\_\_

Manufacturer and Number of Meters: \_\_\_\_\_

Range of Meter Size and Type: \_\_\_\_\_

AMR System Manufacturer: \_\_\_\_\_

Number and Type of RF Modules: \_\_\_\_\_

Number of Data Collection Units/Repeaters: \_\_\_\_\_

Owner's Utility Billing System: \_\_\_\_\_

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

City/Town/Owner: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Telephone No.: (       ) \_\_\_\_\_

Is this system currently in operation? \_\_\_\_\_

Is the reference willing to conduct a site visit for the selection committee to demonstrate the operation of the system? \_\_\_\_\_

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

3. Project: \_\_\_\_\_  
\_\_\_\_\_

Contract Amount: \_\_\_\_\_

Manufacturer and Number of Meters: \_\_\_\_\_

Range of Meter Size and Type: \_\_\_\_\_

AMR System Manufacturer: \_\_\_\_\_

Number and Type of RF Modules: \_\_\_\_\_

Number of Data Collection Units/Repeaters: \_\_\_\_\_

Owner's Utility Billing System: \_\_\_\_\_

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

City/Town/Owner: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Telephone No.: ( \_\_\_\_\_ )

Is this system currently in operation? \_\_\_\_\_

Is the reference willing to conduct a site visit for the selection committee to demonstrate the operation of the system? \_\_\_\_\_

**C. Recent Contract Integrated with Opal Utility Billing System:**

1. Project: \_\_\_\_\_  
\_\_\_\_\_

Contract Amount: \_\_\_\_\_

Manufacturer and Number of Meters: \_\_\_\_\_

Range of Meter Size and Type: \_\_\_\_\_

AMR System Manufacturer: \_\_\_\_\_

Number and Type of RF Modules: \_\_\_\_\_

Number of Data Collection Units/Repeaters: \_\_\_\_\_

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

City/Town/Owner: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Telephone No.: ( \_\_\_\_\_ )

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

**D. EXACT NAME OF FIRM:** \_\_\_\_\_

☐ a corporation, organized and existing under the laws of the State of \_\_\_\_\_

☐ a partnership

☐ a joint venture

☐ a limited liability company

☐ an individual doing business as \_\_\_\_\_

**BUSINESS ADDRESS:** \_\_\_\_\_

**CITY/TOWN, STATE AND ZIP:** \_\_\_\_\_

**TELEPHONE, including area code:** \_\_\_\_\_

END OF SECTION



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SUPPLEMENT 00410-B**

**TECHNICAL QUESTIONNAIRE**

Please complete all questions in this questionnaire. Provide additional pages to satisfactorily answer any of the following questions (except where a page limit has been specified). Please also provide additional pages describing where your proposal deviates from the technical requirements of these specifications and indicate how your proposal meets the overall intent of this project despite these deviations.

**Provide a full answer for each question. Simply referring to another answer is not a sufficient response.**

1. In which State is your company based, and how long has your company been in business?

\_\_\_\_\_

2. Describe the function of the subcontractors on your team for this project and state how long have they have been in business.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Has your company, or any proposed Subcontractor Company, ever failed to complete any project, ever been removed from any project, or ever filed for bankruptcy? If so, describe the circumstances in full.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

A company or any proposed subcontractor which has failed to complete any project, ever been removed from any project, or ever filed for bankruptcy within the last five (5) years does not meet the minimum evaluation criteria and will not be considered further.

4. Name the individual who will be the authorized representative for receiving notices and for day-to-day project administration. Provide the name, address and phone number of the nearest manufacturer's representative of the meters being provided and of the AMI system(s).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Key personnel working on the project must have a minimum of five years of experience in managing meter installation programs and in installing and/or operating the AMI systems. List the names and qualifications of the key personnel to be assigned to this project, and detail their experience in managing meter installation programs, and in installing and/or operating the AMI system(s), and in training.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

6. Are copies of the warranties and guarantees that will be provided with the equipment and system, including all terms and conditions, provided in the technical proposal? Warranty certificates and guarantees must be provided and must meet the minimum criteria in the specifications.

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7. Provide written certification that the fixed network AMI system, as proposed upon in response to this RFP, will cover the entire distribution system and will be capable of reading substantially all of the water meter accounts in the system.

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8. Is the battery in the RF module field replaceable or will the complete RF module require replacement? If the RF module has field-replaceable batteries, describe the procedure for replacing them, including any special tools or procedures needed. Regardless of the battery type, provide similar description for replacing the RF module itself.

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9. Describe a Transition Plan for maintaining existing meter reading capabilities during installation of new meters and while the new meter reading system is being completed.

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10. The proposer must provide evidence of the company's and subcontractor's financial capacity to undertake this project (such as the most recent annual report). Please include this as an attachment to this completed form.

11. Provide a list and definitions of any acronyms, trademarks or trade names used to describe your proposed AMI system.

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12. What water meter encoders does the fixed network AMI system support?

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**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

13. How many meters can one RF module read?  
\_\_\_\_\_  
\_\_\_\_\_
14. What RF frequency will be used?  
\_\_\_\_\_  
\_\_\_\_\_
15. Is the frequency licensed or unlicensed?  
\_\_\_\_\_  
\_\_\_\_\_
16. How many frequencies or channels are required?  
\_\_\_\_\_  
\_\_\_\_\_
17. How are the frequencies or channels coordinated?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
18. What is the RF module power rating (watts)?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
19. Are the RF modules available as integral units with proposed water meters and registers?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
20. How do you prevent RF interference (from outside sources and from the AMI network) from effecting network performance?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
21. How do you prevent RF interference with other networks?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

22. How is AMI network traffic controlled? For example:

- a. Can RF modules initiate traffic?
- b. Do RF modules require to be polled?
- c. How is data collected from the DCU?
- d. Can DCUs initiate traffic?

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23. Describe the memory in each RF module:

- a. What data is stored?
- b. How much data is stored?
  - i. TOU \_\_\_\_\_
  - ii. Interval \_\_\_\_\_
  - iii. Other \_\_\_\_\_
- c. What happens if the battery dies? Is the memory maintained?

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24. Describe the memory in each DCU:

- a. What data is stored? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. How much data is stored?
  - i. Monthly \_\_\_\_\_
  - ii. TOU \_\_\_\_\_
  - iii. Interval \_\_\_\_\_
- c. How many RF modules are supported?

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**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

25. Explain how time is maintained and coordinated throughout the network:

a. How is network time coordination accomplished?

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b. Is time maintained in the DCU?

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c. Is it coordinated with NOAA, WWV, GPS or equivalent?

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d. What is the time synchronized for each RF module?

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e. What is the expected time drift among all RF modules?

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f. Please explain how RF module time synchronization is accomplished.

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26. The system shall be hosted by the vendor and provided as a Software-as-a-Service solution to the Owner. As such:

a. How does the Owner access the data?

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b. Are reports automatically generated? If so please describe most common reports.

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c. How much historical data is available to the Owner?

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**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

- d. Is the transfer of data to the Owner (all daily reports, reading, etc.) covered by a monthly service fee? If not, please describe the pricing structure.

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27. What is the complete list of tamper detection features supported?

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28. AMI Readings Supported:

- ☐ 15-Min interval, transferred daily  
☐ 15-Min interval, transferred weekly or monthly  
☐ 1-Hour interval, transferred daily  
☐ 1-Hour interval, transferred weekly or monthly

29. What percentage of meters can be placed in a mode that transfers 1-hour interval data daily? 1-hour interval data hourly?

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30. Describe what communication circuits City of Woonsocket will need to lease, and how to determine what size (data rates) and how many circuits need to be purchased. Please be as specific as possible.

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31. What is the “out of box” failure rate of the meters included in your proposal, and what is your policy on replacement of failed meters? Note: Failure rates that are supported by published data or other documentation will be looked upon favorably by the selection committee when evaluating technical proposals

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32. Attach brief description (no more than 3 pages) of your system including network diagrams and all proposed AMI technologies. Include brief description of additional devices, upgrades, or changes that are planned for the system within the next three

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

years. This should include, at a minimum, a schematic of the system identifying 1 of each piece of equipment proposed.

33. Describe the features and capabilities of the AMI system software. This should include, but not be limited to, identifying the software's capabilities for notifying the Owner of unusual occurrences, such as tampering, unusually high usage, and zero usage. Typical critical consumption setpoints by meter size and an explanation on the ease of updating these setpoints shall be provided. Indicate the nearest location where the Owner could view the software in actual use. Your response should include a description of any upcoming software enhancement and be no more than 3 pages.

34. Describe the procedure by which a meter/RF module installer would test a newly installed RF module for successful operation. State in your response how long the installer must wait between the time when the RF module is installed and the time when the installer knows it is functioning successfully.

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35. Explain how the Owner will be able to view historical meter readings utilizing the fixed network AMI system.

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36. Explain the available customer interface options offered by your AMI system, such as secure website, smartphone application, etc.

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37. Explain standard security features and protocols included in your AMI system to protect from unauthorized access to customer's personal information, Owner's records, etc.

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38. What is the starting flow rate for the proposed meter? Also provide the published accuracy range at the starting flow rate.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

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39. Provide information on the distribution-side leak detection capabilities that can be integrated into the proposed AMI system. The City is considering integrating an unattended leak monitoring system (e.g. acoustic sensors permanently deployed in the distribution system at fixed locations) as part of the proposed AMI system and will evaluate options for this as part of the technical criteria reviewed for each proposal. Provide specifications, recommended spacing of leak sensors and typical leak sensing efficiency, installation details, capital cost, operation and maintenance costs and warranty duration/details.
40. It is acknowledged that the lead times on procuring equipment could be impacted by current supply chain issues. Provide a narrative on how this could impact your ability to provide the equipment within the time frames specified.

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END OF SECTION



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SUPPLEMENT 00410-C**

**OPERATION AND MAINTENANCE COST SUMMARY**

In addition to one-time costs and fees submitted with Proposer's Price Proposal, the City wishes to understand the costs associated with operating and maintaining the Proposer's fixed network AMI system over a long-term period. As such, the City requests that Proposer provide a summary of the annual, routine, and occasional costs and fees that can be anticipated in operating and maintaining the Proposer's system over various timeframes (i.e., 0-5, 5-10, and 10-20 year timeframes). This shall include average costs (in 2023 US Dollars and on an average annual basis for the timeframe specified) for the following system components, if and as applicable as determined by Proposer:

1. Annual software and hardware maintenance fees;
2. Cloud-hosting fees;
3. Customer/technical support/service fees;
4. Base station server replacement fees;
5. Communication charges;
6. Electrical power charges;
7. Collector maintenance charges;
8. Radio-frequency module charges;
9. Meter charges;
10. Register charges;
11. Pole rental/lease fees;
12. Data transfer fees;
13. Customer user interface website or smartphone application hosting, service, and maintenance fees.

Proposer may attach additional pages as necessary to provide the information requested above.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

A. Provide a summary of the operation and maintenance costs for the 0-5 year timeframe following completion and commissioning of AMI system installation.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

B. Provide a summary of the operation and maintenance costs for the 5-10 year timeframe of AMI system use.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

C. Provide a summary of the operation and maintenance costs for the 10-20 year timeframe of AMI system use.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

END OF SECTION

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

SECTION 00500

AGREEMENT

THIS AGREEMENT is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_, and executed in the City of Woonsocket in the State of Rhode Island;

BETWEEN the OWNER: The City of Woonsocket, by and through the Office of Purchasing, hereinafter called OWNER.

and the CONTRACTOR: \_\_\_\_\_  
(Name and Address) \_\_\_\_\_  
\_\_\_\_\_

The PROJECT is: Water Meters and Fixed  
Network AMI System - 2023  
Woonsocket Bid No. 6040

The ARCHITECT/  
ENGINEER is: Pare Corporation  
(Name and Address) 8 Blackstone Valley Place  
Lincoln, RI 02865

OWNER and CONTRACTOR, in consideration of the contract sum and the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK.

1.1. The CONTRACTOR agrees to furnish all equipment, machinery, tools, and labor; to furnish and deliver all materials required to be furnished and delivered in and about the improvement; and to perform all work required for the City of Woonsocket, Water Meters and Fixed Network AMI System - 2023, in strict conformity with the provisions of this Contract Agreement.

ARTICLE 2. CONTRACT DOCUMENTS.

2.1. The Contract Documents consist of the "Contract Documents for Water Meters and Fixed Network AMR System". The Contract Documents include this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Technical Specifications, Appendices, Addenda issued prior to execution of this Agreement, Request for Proposals (Notice to Contractors), Price Proposal, Summary of Work, Bonds and Insurance requirements, other documents listed in this Agreement, and all Modifications issued after execution of this Agreement. These documents form the Contract and are as fully a part of the Contract as if attached to this Agreement or incorporated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

ARTICLE 3. CONTRACT TIME.

3.1. The CONTRACTOR shall be prepared to begin the Work to be performed under this contract as set forth in the proposal within fifteen (15) calendar days of the date indicated in the Notice to Proceed. The Work shall be prosecuted from as many different points, in such part or parts and at such time as necessary and shall be conducted in such a manner and with such materials, equipment, and labor as are necessary to ensure completion within the time set forth below. Should the prosecution of the Work for any reason be discontinued, the CONTRACTOR shall notify the OWNER at least twenty-four (24) hours before resuming operations.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

3.2. The Contractor shall pay to the OWNER for each and every calendar day that he shall be in default in completing the entire work within the time and specifications stipulated, the sum of one thousand dollars (\$1,000.00) a day for no fault of City excessive delay of project beyond the completion date established in the Contract. This sum is hereby agreed upon, not as a penalty, but as liquidated damages, which the OWNER will suffer by reason of such default. The OWNER shall have the right to deduct the amount of any such damages from any moneys due the Contractor under this Contract.

**ARTICLE 4. CONTRACT SUM**

4.1. The OWNER shall pay the CONTRACTOR in current funds for the CONTRACTOR's performance of the Contract the Contract Sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), subject to additions and deductions as provided in the Contract Documents.

**ARTICLE 5. PAYMENT PROCEDURES.**

5.1. CONTRACTOR shall submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed by the ENGINEER as provided in the General and Supplementary Conditions.

5.2. *Progress Payments.* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's monthly Applications for Payment as certified by the ENGINEER. All progress payments shall be on the basis of the progress of the Work measured by the schedule of values established in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements. The OWNER shall retain five percent (5%) of the progress or monthly payments claimed and pay the Contractor on or before the last day of the following month. Retainage will be released within 90 days after final inspection and acceptance of the Work.

5.3. *Final Payment.* Upon final completion and acceptance of the Work in accordance with the General Conditions, OWNER shall pay the remainder of the Contract Price as certified by the ENGINEER as provided in said General Conditions.

**ARTICLE 6. SURETY.**

6.1. As security for the full and faithful performance of this contract and all the incidents thereto, the CONTRACTOR has made and furnished a contract bond with \_\_\_\_\_ as surety. Said Performance and Payment Bonds shall be equal to one hundred percent (100%) of the Contract Sum, with a Surety company registered and licensed in the State of Rhode Island.

6.2. An original, executed copy of the surety instruments shall be submitted to the OWNER.

**ARTICLE 7. MISCELLANEOUS PROVISIONS.**

7.1. Terms used in this Agreement are defined in the General Conditions and Supplementary Conditions and shall have the meanings as set forth in the General Conditions and Supplementary Conditions.

7.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the prior written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

assigned without prior written consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

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

**ARTICLE 8. TERMINATION OR SUSPENSION.**

The Contract may be terminated by the OWNER or the CONTRACTOR as provided in the General Conditions. The Work may be suspended by the OWNER as provided in the General Conditions.

IN WITNESS WHEREOF, the parties of the presents have hereunto set their names this \_\_\_\_ day of A.D. 20\_\_\_\_.

City of Woonsocket

In the presence of: \_\_\_\_\_

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

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

\_\_\_\_\_

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

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

CONTRACTOR \_\_\_\_\_

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

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

END OF SECTION

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

SECTION 00620

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That           we, \_\_\_\_\_, as  
Principal, and \_\_\_\_\_, as  
Surety, are held and firmly bound unto the State of Rhode Island, as Oblige, in the sum of  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_ ), well and  
truly to paid, and for the payment of which we and each of us hereby bind our self, our heirs, executors,  
administrators, successors and assigns, jointly and severally, firmly by these presents.

Whereas, the Principal has submitted a Bid for the City of Woonsocket's Water Meters and Fixed  
Network AMI System - 2023.

NOW, THEREFORE, if the City of Woonsocket shall accept the Bid of the Principal and the Principal shall enter into a Contract with the City of Woonsocket in accordance with the terms of such Bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the City of Woonsocket the difference not to exceed the penalty hereof between the amount specified in said Bid and such larger amount for which the City may in good faith contract with another party to perform the Work covered by said Bid, then this obligation shall be null and void, otherwise to remain in full force.



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**BID BOND**

IN WITNESS WHEREOF, the parties hereto have signed, sealed and delivered this instrument at the City of Woonsocket, Rhode Island, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

WITNESS:

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

By: \_\_\_\_\_  
Name & Title  
(Affix Corporate Seal)

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

By: \_\_\_\_\_  
Attorney-in-fact  
(Affix Corporate Seal Here)

FEIN No.

(Attach Power of Attorney to this Bond)

END OF SECTION

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

SECTION 00630

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_, as Principal,  
and \_\_\_\_\_, as Surety, are held  
and firmly bound unto the City of Woonsocket, as Oblige, in the sum of \_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_), well and truly to paid, and for the payment of which we and each  
of us hereby bind our self, our heirs, executors, administrators, successors and assigns, jointly and  
severally, firmly by these presents.

THIS OBLIGATION IS UPON THE CONDITION that if the person or persons designated in the  
contract annexed hereto as the Contractor, shall faithfully furnish and perform everything required to be  
furnished and performed by them under the provisions of said Contract then this obligation shall be void;  
otherwise, it shall remain in full force and effect.

In the event that the said contract is abandoned by the Contractor, or the work of the Contractor is  
discontinued by the City of Woonsocket under the provisions of the GENERAL CONDITIONS, said  
surety hereby further agrees that it shall, if requested in writing by the City of Woonsocket, take such  
action as is necessary to complete said contract.

FOR VALUE RECEIVED, said surety company hereby stipulates and agrees that no change, extension of  
time, alteration or addition to the terms of said contract or to the work to be performed thereunder or the  
Contract Documents accompanying the same shall in any wise affect its obligation on this bond, and does  
hereby waive notice of any such change, extension of time, alteration or addition to the terms of said  
contract or to the work or to the specifications.

Said surety hereby certifies and affirms under the penalties of perjury that said surety is licensed by the  
State of Rhode Island.

Any legal action commenced by Principal or Surety must be commenced within two (2) years from the  
date of final payment.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

**PERFORMANCE BOND**

IN WITNESS WHEREOF, the parties hereto have signed, sealed and delivered this instrument at the City of Woonsocket, Rhode Island, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

WITNESS:

(Principal)

By: \_\_\_\_\_  
Name & Title  
(Affix Corporate Seal)

(Surety)

By: \_\_\_\_\_  
Attorney-in-fact  
(Affix Corporate Seal Here)

FEIN No.

(Attach Power of Attorney to this Bond)

END OF SECTION

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 00700**

**GENERAL CONDITIONS**

- A. This Contract is governed by the enclosed General Conditions, except where modified by Section 00800- Supplemental Conditions.

END OF SECTION

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

# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly By



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
*a practice division of the*  
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

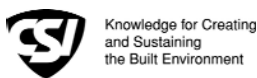
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These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor Nos. C-520 or C-525 (2002 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the EJCDC Construction Documents, General and Instructions (No. C-001) (2002 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. C-800) (2002 Edition).

## TABLE OF CONTENTS

### Page

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY .....	6
1.01 <i>Defined Terms</i> .....	6
1.02 <i>Terminology</i> .....	8
ARTICLE 2 - PRELIMINARY MATTERS .....	9
2.01 <i>Delivery of Bonds and Evidence of Insurance</i> .....	9
2.02 <i>Copies of Documents</i> .....	9
2.03 <i>Commencement of Contract Times; Notice to Proceed</i> .....	9
2.04 <i>Starting the Work</i> .....	9
2.05 <i>Before Starting Construction</i> .....	9
2.06 <i>Preconstruction Conference</i> .....	9
2.07 <i>Initial Acceptance of Schedules</i> .....	9
ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE .....	10
3.01 <i>Intent</i> .....	10
3.02 <i>Reference Standards</i> .....	10
3.03 <i>Reporting and Resolving Discrepancies</i> .....	10
3.04 <i>Amending and Supplementing Contract Documents</i> .....	11
3.05 <i>Reuse of Documents</i> .....	11
3.06 <i>Electronic Data</i> .....	11
ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS .....	11
4.01 <i>Availability of Lands</i> .....	11
4.02 <i>Subsurface and Physical Conditions</i> .....	12
4.03 <i>Differing Subsurface or Physical Conditions</i> .....	12
4.04 <i>Underground Facilities</i> .....	13
4.05 <i>Reference Points</i> .....	13
4.06 <i>Hazardous Environmental Condition at Site</i> .....	13
ARTICLE 5 - BONDS AND INSURANCE .....	14
5.01 <i>Performance, Payment, and Other Bonds</i> .....	14
5.02 <i>Licensed Sureties and Insurers</i> .....	15
5.03 <i>Certificates of Insurance</i> .....	15
5.04 <i>Contractor's Liability Insurance</i> .....	15
5.05 <i>Owner's Liability Insurance</i> .....	16
5.06 <i>Property Insurance</i> .....	16
5.07 <i>Waiver of Rights</i> .....	17
5.08 <i>Receipt and Application of Insurance Proceeds</i> .....	17
5.09 <i>Acceptance of Bonds and Insurance; Option to Replace</i> .....	17
5.10 <i>Partial Utilization, Acknowledgment of Property Insurer</i> .....	18
ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES .....	18
6.01 <i>Supervision and Superintendence</i> .....	18
6.02 <i>Labor; Working Hours</i> .....	18
6.03 <i>Services, Materials, and Equipment</i> .....	18
6.04 <i>Progress Schedule</i> .....	18
6.05 <i>Substitutes and "Or-Equals"</i> .....	19
6.06 <i>Concerning Subcontractors, Suppliers, and Others</i> .....	20
6.07 <i>Patent Fees and Royalties</i> .....	21
6.08 <i>Permits</i> .....	21
6.09 <i>Laws and Regulations</i> .....	21
6.10 <i>Taxes</i> .....	22
6.11 <i>Use of Site and Other Areas</i> .....	22
6.12 <i>Record Documents</i> .....	22
6.13 <i>Safety and Protection</i> .....	22
6.14 <i>Safety Representative</i> .....	23
6.15 <i>Hazard Communication Programs</i> .....	23

6.16	<i>Emergencies</i> .....	23
6.17	<i>Shop Drawings and Samples</i> .....	23
6.18	<i>Continuing the Work</i> .....	24
6.19	<i>Contractor's General Warranty and Guarantee</i> .....	24
6.20	<i>Indemnification</i> .....	24
6.21	<i>Delegation of Professional Design Services</i> .....	25
ARTICLE 7 - OTHER WORK AT THE SITE .....		25
7.01	<i>Related Work at Site</i> .....	25
7.02	<i>Coordination</i> .....	26
7.03	<i>Legal Relationships</i> .....	26
ARTICLE 8 - OWNER'S RESPONSIBILITIES .....		26
8.01	<i>Communications to Contractor</i> .....	26
8.02	<i>Replacement of Engineer</i> .....	26
8.03	<i>Furnish Data</i> .....	26
8.04	<i>Pay When Due</i> .....	26
8.05	<i>Lands and Easements; Reports and Tests</i> .....	26
8.06	<i>Insurance</i> .....	26
8.07	<i>Change Orders</i> .....	26
8.08	<i>Inspections, Tests, and Approvals</i> .....	26
8.09	<i>Limitations on Owner's Responsibilities</i> .....	27
8.10	<i>Undisclosed Hazardous Environmental Condition</i> .....	27
8.11	<i>Evidence of Financial Arrangements</i> .....	27
ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION.....		27
9.01	<i>Owner's Representative</i> .....	27
9.02	<i>Visits to Site</i> .....	27
9.03	<i>Project Representative</i> .....	27
9.04	<i>Authorized Variations in Work</i> .....	27
9.05	<i>Rejecting Defective Work</i> .....	27
9.06	<i>Shop Drawings, Change Orders and Payments</i> .....	28
9.07	<i>Determinations for Unit Price Work</i> .....	28
9.08	<i>Decisions on Requirements of Contract Documents and Acceptability of Work</i> .....	28
9.09	<i>Limitations on Engineer's Authority and Responsibilities</i> .....	28
ARTICLE 10 - CHANGES IN THE WORK; CLAIMS .....		28
10.01	<i>Authorized Changes in the Work</i> .....	28
10.02	<i>Unauthorized Changes in the Work</i> .....	29
10.03	<i>Execution of Change Orders</i> .....	29
10.04	<i>Notification to Surety</i> .....	29
10.05	<i>Claims</i> .....	29
ARTICLE 11 - COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK.....		30
11.01	<i>Cost of the Work</i> .....	30
11.02	<i>Allowances</i> .....	31
11.03	<i>Unit Price Work</i> .....	31
ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES .....		32
12.01	<i>Change of Contract Price</i> .....	32
12.02	<i>Change of Contract Times</i> .....	33
12.03	<i>Delays</i> .....	33
ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK.....		33
13.01	<i>Notice of Defects</i> .....	33
13.02	<i>Access to Work</i> .....	33
13.03	<i>Tests and Inspections</i> .....	33
13.04	<i>Uncovering Work</i> .....	34
13.05	<i>Owner May Stop the Work</i> .....	34
13.06	<i>Correction or Removal of Defective Work</i> .....	34
13.07	<i>Correction Period</i> .....	34
13.08	<i>Acceptance of Defective Work</i> .....	35
13.09	<i>Owner May Correct Defective Work</i> .....	35
ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION .....		36
14.01	<i>Schedule of Values</i> .....	36
14.02	<i>Progress Payments</i> .....	36
14.03	<i>Contractor's Warranty of Title</i> .....	37
14.04	<i>Substantial Completion</i> .....	37



14.05	<i>Partial Utilization</i> .....	38
14.06	<i>Final Inspection</i> .....	38
14.07	<i>Final Payment</i> .....	38
14.08	<i>Final Completion Delayed</i> .....	39
14.09	<i>Waiver of Claims</i> .....	39
ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION .....		39
15.01	<i>Owner May Suspend Work</i> .....	39
15.02	<i>Owner May Terminate for Cause</i> .....	39
15.03	<i>Owner May Terminate For Convenience</i> .....	40
15.04	<i>Contractor May Stop Work or Terminate</i> .....	40
ARTICLE 16 - DISPUTE RESOLUTION .....		41
16.01	<i>Methods and Procedures</i> .....	41
ARTICLE 17 - MISCELLANEOUS .....		41
17.01	<i>Giving Notice</i> .....	41
17.02	<i>Computation of Times</i> .....	41
17.03	<i>Cumulative Remedies</i> .....	41
17.04	<i>Survival of Obligations</i> .....	41
17.05	<i>Controlling Law</i> .....	41
17.06	<i>Headings</i> .....	41

## GENERAL CONDITIONS

### ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

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#### 1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

3. *Application for Payment*--The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidder*--The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, bid security of acceptable form, if any, and the Bid Form with any supplements.

9. *Change Order*--A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*-- Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor's submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*--The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any, (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

15. *Contractor*--The individual or entity with whom Owner has entered into the Agreement.

16. *Cost of the Work*--See Paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *Engineer*--The individual or entity named as such in the Agreement.

20. *Field Order*--A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

21. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

22. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

23. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

24. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

25. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

26. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*--The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

28. *Notice to Proceed*--A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.

29. *Owner*--The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*--Polychlorinated biphenyls.

31. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

32. *Progress Schedule*--A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

33. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

34. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

35. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

36. *Related Entity* -- An officer, director, partner, employee, agent, consultant, or subcontractor.

37. *Resident Project Representative*--The authorized representative of Engineer who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Schedule of Submittals*--A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

40. *Schedule of Values*--A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

41. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

42. *Site*--Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

43. *Specifications*--That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain

administrative requirements and procedural matters applicable thereto.

44. *Subcontractor*--An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

45. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

46. *Successful Bidder*--The Bidder submitting a responsive Bid to whom Owner makes an award.

47. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

48. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or any Subcontractor.

49. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

50. *Unit Price Work*--Work to be paid for on the basis of unit prices.

51. *Work*--The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

52. *Work Change Directive*--A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times

but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

## 1.02 Terminology

A. The following words or terms are not defined but, when used in the Bidding Requirements or Contract Documents, have the following meaning.

### B. Intent of Certain Terms or Adjectives

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered", "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action or determination will be solely to evaluate, in general, the Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

### C. Day

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

### D. Defective

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

- a. does not conform to the Contract Documents, or
- b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents, or
- c. has been damaged prior to Engineer's - recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

#### *E. Furnish, Install, Perform, Provide*

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.

F. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## ARTICLE 2 - PRELIMINARY MATTERS

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### *2.01 Delivery of Bonds and Evidence of Insurance*

A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

### *2.02 Copies of Documents*

A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

### *2.03 Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement

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

### *2.04 Starting the Work*

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

### *2.05 Before Starting Construction*

A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule; indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary Schedule of Submittals; and

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

### *2.06 Preconstruction Conference*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

### *2.07 Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

#### ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

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##### 3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to Owner.

C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

##### 3.02 *Reference Standards*

A. Standards, Specifications, Codes, Laws, and Regulations

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or

responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, or Engineer, or any of, their Related Entities, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

##### 3.03 *Reporting and Resolving Discrepancies*

###### A. Reporting Discrepancies

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor knew or reasonably should have known thereof.

###### B. Resolving Discrepancies

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work

(unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

### 3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;

2. Engineer's approval of a Shop Drawing or Sample; (Subject to the provisions of Paragraph 6.17.D.3); or

3. Engineer's written interpretation or clarification.

### 3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier or other individual or entity performing or furnishing all of the Work under a direct or indirect contract with Contractor, shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or Engineer's consultants, including electronic media editions; or

2. reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaption by Engineer.

B. The prohibition of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

### 3.06 *Electronic Data*

A. Copies of data furnished by Owner or Engineer to Contractor or Contractor to Owner or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's

sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party..

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

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

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### 4.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

#### 4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the “technical data” contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such “technical data” is identified in the Supplementary Conditions. Except for such reliance on such “technical data,” Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

1. the completeness of such reports and drawings for Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions, or information.

#### 4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If Contractor believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any “technical data” on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *Engineer’s Review:* After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner’s obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer’s findings and conclusions.

#### C. Possible Price and Times Adjustments

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor’s cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor’s making such final commitment; or



c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, Owner and Engineer, and any of their Related Entities shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

#### 4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

- a. reviewing and checking all such information and data,
- b. locating all Underground Facilities shown or indicated in the Contract Documents,
- c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction, and
- d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

#### B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will

promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

#### 4.05 *Reference Points*

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

#### 4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the Engineer in the preparation of the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered to Contractor written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to

entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06. G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

## ARTICLE 5 - BONDS AND INSURANCE

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### 5.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified

in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent must be accompanied by a certified copy of the agent's authority to act.

C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

#### 5.02 *Licensed Sureties and Insurers*

A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

#### 5.03 *Certificates of Insurance*

A. Contractor shall deliver to Owner, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.

B. Owner shall deliver to Contractor, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.

#### 5.04 *Contractor's Liability Insurance*

A. Contractor shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection

from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

b. by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insured (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include completed operations insurance;

4. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

7. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment.

a. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

#### 5.05 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

#### 5.06 *Property Insurance*

A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, (other than caused by flood) and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

5. allow for partial utilization of the Work by Owner;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. Owner shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any

deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

#### 5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured or additional insured (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them.

#### 5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.

B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

#### 5.09 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract

Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

#### 5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

### ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

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#### 6.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances. The superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communications given to or

received from the superintendent shall be binding on Contractor.

#### 6.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

#### 6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

#### 6.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

#### 6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. *"Or-Equal" Items:* If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole,

3) it has a proven record of performance and availability of responsive service; and

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times, and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

#### 2. Substitute Items

a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. Contractor shall submit sufficient information as provided below to allow Engineer to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented in the General Requirements and as Engineer may decide is appropriate under the circumstances.

d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

1) shall certify that the proposed substitute item will:

a) perform adequately the functions and achieve the results called for by the general design,

b) be similar in substance to that specified, and

c) be suited to the same use as that specified;

2) will state:

a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time;

b) whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and

c) whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

a) all variations of the proposed substitute item from that specified, and

b) available engineering, sales, maintenance, repair, and replacement services;

4) and shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change,

*B. Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

*C. Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by either a Change Order for a substitute or an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

*D. Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

*E. Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute item so proposed or submitted by Contractor, Contractor shall reimburse Owner for the charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the charges of Engineer for making changes in the Contract

Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

*F. Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

#### 6.06 Concerning Subcontractors, Suppliers, and Others

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity, nor

2. shall anything in the Contract Documents create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual



or entity except as may otherwise be required by Laws and Regulations.

D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

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

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

#### 6.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of Owner or Engineer its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

B. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

#### 6.08 *Permits*

A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

#### 6.09 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

#### 6.10 *Taxes*

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

#### 6.11 *Use of Site and Other Areas*

##### A. Limitation on Use of Site and Other Areas

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

*B. Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

*C. Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

*D. Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

#### 6.12 *Record Documents*

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

#### 6.13 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

C. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Draw-

ings or Specifications or to the acts or omissions of Owner or Engineer or , or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

D. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

#### 6.14 *Safety Representative*

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

#### 6.15 *Hazard Communication Programs*

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

#### 6.16 *Emergencies*

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

#### 6.17 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the acceptable Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

##### 1. Shop Drawings

a. Submit number of copies specified in the General Requirements.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:* Contractor shall also submit Samples to Engineer for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals.

a. Submit number of Samples specified in the Specifications.

b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.

B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals , any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

##### C. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. the suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

c. all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto; and

d. shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents

with respect to Contractor's review and approval of that submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations, that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawing's or Sample Submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

#### *D. Engineer's Review*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

#### *E. Resubmittal Procedures*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

#### *6.18 Continuing the Work*

A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or

disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

#### *6.19 Contractor's General Warranty and Guarantee*

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its Related Entities shall be entitled to rely on representation of Contractor's warranty and guarantee.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;

6. any inspection, test, or approval by others; or

7. any correction of defective Work by Owner.

#### *6.20 Indemnification*

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or

arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .

B. In any and all claims against Owner or Engineer or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

#### 6.21 *Delegation of Professional Design Services*

A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.

B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal

shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

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## ARTICLE 7 - OTHER WORK AT THE SITE

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### 7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or via other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to Contractor prior to starting any such other work; and

2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and shall properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and

properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

#### 7.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

#### 7.03 *Legal Relationships*

A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's actions or inactions.

C. Contractor shall be liable to Owner and any other contractor for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's action or inactions.

## ARTICLE 8 - OWNER'S RESPONSIBILITIES

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### 8.01 *Communications to Contractor*

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

### 8.02 *Replacement of Engineer*

A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

### 8.03 *Furnish Data*

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

### 8.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

### 8.05 *Lands and Easements; Reports and Tests*

A. Owner's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by Engineer in preparing the Contract Documents.

### 8.06 *Insurance*

A. Owner's responsibilities, if any, in respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

### 8.07 *Change Orders*

A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

### 8.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility in respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

#### 8.09 *Limitations on Owner's Responsibilities*

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

#### 8.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

#### 8.11 *Evidence of Financial Arrangements*

A. If and to the extent Owner has agreed to furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents, Owner's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

### ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

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#### 9.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents and will not be changed without written consent of Owner and Engineer.

#### 9.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep

Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

#### 9.03 *Project Representative*

A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

#### 9.04 *Authorized Variations in Work*

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

#### 9.05 *Rejecting Defective Work*

A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

#### 9.06 *Shop Drawings, Change Orders and Payments*

A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.

B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.

D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

#### 9.07 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

#### 9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believe that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show

partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

#### 9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to, the Resident Project Representative, if any, and assistants, if any.

### ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

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#### 10.01 *Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall



promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

#### 10.02 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.B.

#### 10.03 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

#### 10.04 *Notification to Surety*

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

#### 10.05 *Claims*

A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

B. *Notice:* Written notice stating the general nature of each Claim, shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part,

2. approve the Claim, or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

## ARTICLE 11 - COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

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### 11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in Paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and

Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to Engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have

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

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expresses, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

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

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A and 11.01.B.

**C. Contractor's Fee:** When all the Work is performed on the basis of cost-plus, Contractor's fee shall

be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

**D. Documentation:** Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

## 11.02 Allowances

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

### B. Cash Allowances

1. Contractor agrees that:

a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

### C. Contingency Allowance

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

## 11.03 Unit Price Work

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

## ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

### 12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an

allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

### 12.02 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted

by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

#### 12.03 *Delays*

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

D. Owner, Engineer and the Related Entities of each of them shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of Engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

## ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

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### 13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

### 13.02 *Access to Work*

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

### 13.03 *Tests and Inspections*

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in said Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to

be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation.

F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

#### 13.04 *Uncovering Work*

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

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If, the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

#### 13.05 *Owner May Stop the Work*

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

#### 13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

#### 13.07 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or

2. correct such defective Work; or

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications .

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

#### 13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

#### 13.09 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

### ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

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#### 14.01 *Schedule of Values*

A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress

payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

#### 14.02 *Progress Payments*

##### A. Applications for Payments

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

##### B. Review of Applications

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations on the Site of the executed Work as an experienced and qualified design professional and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

b. that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent



inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Change Orders;
- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
- d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

*C. Payment Becomes Due*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

*D. Reduction in Payment*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

- a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
- b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
- c. there are other items entitling Owner to a set-off against the amount recommended; or
- d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for such action.

3. If it is subsequently determined that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1.

*14.03 Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

*14.04 Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly after Contractor's notification, , Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will within 14 days after submission of the tentative certificate to Owner notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will within said 14 days execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial

Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to complete or correct items on the tentative list.

#### 14.05 *Partial Utilization*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions.

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor will certify to Owner and Engineer that such part of the Work is substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

#### 14.06 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals

that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### 14.07 *Final Payment*

##### A. Application for Payment

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.7;

b. consent of the surety, if any, to final payment;

c. a list of all Claims against Owner that Contractor believes are unsettled; and

d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

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

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations

under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

#### C. Payment Becomes Due

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and , will be paid by Owner to Contractor.

#### 14.08 *Final Completion Delayed*

A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

#### 14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance

with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

### ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

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#### 15.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

#### 15.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);

2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

3. Contractor's disregard of the authority of Engineer; or

4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety ) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion),

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph Owner shall not be required to obtain the lowest price for the Work performed.

D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B, and 15.02.C.

#### 15.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

#### 15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

### ARTICLE 16 - DISPUTE RESOLUTION

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#### 16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be

governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions, or

2. agrees with the other party to submit the Claim to another dispute resolution process, or

3. gives written notice to the other party of their intent to submit the Claim to a court of competent jurisdiction.

## ARTICLE 17 - MISCELLANEOUS

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### 17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

### 17.02 *Computation of Times*

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

### 17.03 *Cumulative Remedies*

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

### 17.04 *Survival of Obligations*

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

### 17.05 *Controlling Law*

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

### 17.06 *Headings*

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

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 00800**

**SUPPLEMENTARY CONDITIONS**

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

**ARTICLE 1 - DEFINITIONS**

**General**

The terms "Plans" and "Project Plans" used in various locations throughout these Specifications shall have the same meaning as "Drawings" as defined in the General Conditions. The word "site" shall mean the specific area adjacent to and including the area upon which the work is performed. The words "as directed", "as permitted", "as required", or words of like effect shall mean the direction, permission, and/or requirement of the Owner is intended and similarly the words, "approved", "acceptable", "satisfactory", or words of like effect shall mean approved by, acceptable, or satisfactory to the Owner, unless otherwise provided herein. The words "necessary", "suitable" "equal", or words of like effect shall mean necessary, suitable, or equal in the opinion of the Owner.

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

**SC-1.01. SPECIFIC CHANGES**

Include following sections under paragraph 1.01.

SC-1.19. Engineer – Delete paragraph 1.19 in its entirety and replace with the following:

1.19. Engineer - Owner or Owner's representative as defined by the Owner.

SC-1.43. Delete paragraph 1.43 in its entirety and replace with the following:

1.43 Specifications - Sections included under Division 1 through Division 16 of the Contract Documents.

SC-1.45. Insert the following at the beginning of the definition.

Substantial completion shall mean either that the Work required by the Contract has been completed except for work having a Contract Price of less than one per cent of the then adjusted total contract price, or...

SC-1.52. Add the following new definitions after paragraph 1.52 of the General Conditions:

1.53 Conditions of the Contract - The combined General Conditions and Supplementary Conditions.

1.54 Contract Documents – Request for Proposals, Information to Bidders, Instructions for Bidders, Price Proposal Form, Supplements to Price Proposal, Technical Proposal Requirements, Agreement, Bonds, General Conditions, Supplementary Conditions, Specifications, and Appendices.

**ARTICLE 2 - PRELIMINARY MATTERS**

SC-2.03. Delete paragraph 2.03 of the General Conditions in its entirety and insert the following in its place:

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

2.03. The Contract Time will commence at the issuance of the Notice to Proceed or within fifteen days of contract execution.

SC-2.05C. Delete paragraph 2.05C of the General Conditions in its entirety and insert the following in its place:

2.05C. Before any Work at the site is started, Contractor shall deliver to Owner, with copies to Engineer and each additional insured identified in Article 5 of the Supplementary Conditions, certificates of insurance (and other evidence requested by Owner) which Contractor is required to purchase and maintain in accordance with the requirements of Article 5.

**ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE**

SC-3.01. Add a new paragraph immediately after Paragraph 3.01. of the General Conditions which is to read as follows:

3.01 D. Each and every provision of law and clause required by law to be inserted in these Contract Documents shall be deemed to be inserted herein, and they shall be read and enforced as though it were included herein, and if through mistake or otherwise, any such provision is not inserted, or if not correctly inserted, then upon the application of either party, the Contract Documents shall forthwith be physically amended to make such insertion.

**ARTICLE 4.0 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS**

SC-4.01. Add a new paragraph immediately after Paragraph 4.01. of the General Conditions which is to read as follows:

4.01D. If all lands and rights-of-way are not obtained as herein contemplated before construction begins, Contractor shall begin the work upon such land and rights-of-way as Owner has previously acquired.

**ARTICLE 5 - BONDS AND INSURANCE**

Amend paragraph 5.01 by adding the following sections:

D. The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds shall be in a form acceptable to the Owner and shall be issued by companies licensed to issue such Bonds in the State of Rhode Island, and the cost thereof shall be included in the Contract Sum. Bonding companies shall be approved by the Owner and shall be listed on the U.S. Treasuries Circular 570 of approved bonding companies. The amount of each bond shall be equal to 100 percent of the Contract Sum, as amended.

Insurance companies shall be approved by the Owner and shall be rated A- or better.

E. The Contractor shall deliver the required bonds to the Owner on or before the date the Agreement is entered into.

F. The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

Amend Paragraph 5.04 as follows:

SC-5.04 The limits of liability for the insurance required by paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Law:

5.04A.1. and 5.04A.2. Worker's Compensation

(1) Worker's Compensation Statutory Coverage

5.04A.3., 5.04A.4., and 5.04A.5. Comprehensive General Liability including Premise/Operations; Explosion, Collapse and Underground Property Damage; Products/Completed Operations, Broad Form Contractual, Independent Contractors; Broad Form Property Damage; and Personal Injury liabilities. Carrier shall be "A-rated or higher.

a.) Bodily Injury:

- (i) \$1,000,000- Each Occurrence
- (ii) \$1,000,000- Annual Aggregate

b.) Property Damage:

- (i) \$1,000,000- Each Occurrence
- (ii) \$1,000,000- Annual Aggregate

c.) Products & Complete Operations to be maintained for one (1) year after final payment.

d.) Property Damage Liability Insurance will provide X, C, or U coverage as applicable.

(3) Contractor's Liability:

a.) Bodily Injury:

- (i) \$1,000,000- Each Occurrence

b.) Property Damage:

- (i) \$1,000,000- Each Occurrence
- (ii) \$1,000,000- Annual Aggregate

(4) Personal Injury, with Employment Exclusion deleted:

- a.) \$1,000,000- Annual Aggregate

5.04A.6. Comprehensive Automobile Liability including all owned (private and others), hired and non-owned vehicles: Carrier shall be A- rated or higher.

a.) Bodily Injury:

- (i) \$500,000- Each Person
- (ii) \$1,000,000- Each Occurrence

b.) Property Damage:

- (i) \$1,000,000- Each Occurrence

c.) Special Hazards:

- (i) \$1,000,000- Each Occurrence



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

SC-5.04. Add a new paragraph immediately after Paragraph 5.04B.7. of the General Conditions which is to read as follows:

5.04B.8. Contractor may purchase and maintain excess liability insurance in the umbrella form in order to satisfy the limits of liability required for the insurance to be purchased and maintained in accordance with paragraph 5.04. Evidence of such excess liability shall be delivered to Owner in the form of a certificate indicating the policy numbers and limits of liability of all underlying insurance.

SC-5.04. ADD paragraph 5.04C of the General Conditions:

5.04C. If Owner has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by Contractor in accordance with this Article 5 on the basis of its not complying with the Contract Documents, Owner will notify Contractor in writing thereof within ten days of the date of delivery of such certificates to Owner in accordance with Paragraph 2.05C. Contractor will provide such additional information in respect of insurance provided by him/her as Owner may reasonably request.

SC-5.05 DELETE paragraph 5.05 of the General Conditions in its entirety.

SC-5.06B DELETE paragraph 5.06 of the General Conditions in its entirety.

SC-5.07B and 5.07C DELETE paragraph 5.07B and 5.07C of the General Conditions in its entirety.

SC-5.08. DELETE paragraph 5.08 of the General Conditions in its entirety.

SC-5.09 – DELETE paragraph 5.09 of the General Conditions in its entirety and replace with the following:

5.09 If Owner has any objection to the coverage afforded by, or other provisions of, the insurance required to be purchased and maintained by Contractor in accordance with Article 5.0 on the basis of its not complying with the Contract Documents, Owner shall notify Contractor thereof in writing. Contractor shall provide to the Owner such additional information in respect of insurance provided by as the Owner may reasonably request.

**ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES**

Amend Article 6.0 by adding the following:

**SC 6.0 Equal Opportunity**

The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex or national origin.

Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising.

SC-6.02. Add the following new paragraphs immediately after Paragraph 6.02B of the General Conditions:

6.02C. This Agreement is subject to the applicable provisions of the Contract Work Hours and Safety Standards Act, Public Law 87-581, 87th Congress, as amended. No Contractor or Subcontractor contracting

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

for any part of the work shall require or permit any laborer or mechanic to be employed on the Work in excess of forty hours in any work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his/her basic rate of pay for all hours worked in excess of forty hours in such work week.

6.02D. Contractor shall employ only competent persons to do the work and whenever Owner shall notify Contractor, in writing, that any person on the Work appears to be incompetent, disorderly, or otherwise unsatisfactory, such person shall be removed from the Project and shall not again be employed on it except with the consent of Owner.

6.02E. Except as may be otherwise required by law, all claims and disputes pertaining to the classification of labor employed on the project under this Contract shall be decided by the governing body having jurisdiction.

SC-6.06. DELETE Paragraphs 6.06A and 6.06B of the General Conditions in their entirety and insert the following in its place:

6.06A. Contractor shall not employ any subcontractor, supplier or other person or organization, (including those who are to furnish the principal items of materials or equipment), whether initially or as a substitute, against whom Owner may have reasonable objection. Acceptance of any Subcontractor, other person or organization by Owner does not waive Owner's rights to reject defective Work. Contractor shall not be required to employ any Subcontractor, other person or organization against which Contractor has reasonable objection.

SC-6.06. Add a new sentence at the end of Section 6.06 to read as follows:

6.06H. Owner or ENGINEER may furnish to any Subcontractor, Supplier or other person or organization, to the extent practicable, information about amounts paid on their behalf to Contractor in accordance with Contractor's Applications for Payment.

SC-6.10. Add the following language at the end of Paragraph 6.10 of the General Conditions:

The materials and supplies to be used in the Work of this Contract are exempt from the Sales and Use Tax of the State of Rhode Island. Contractor shall obtain the proper certificates, maintain the necessary records and otherwise comply with the requirements of Chapter 14 of the Acts of 1966 and any amendments thereto.

SC-6.20. Add two sentences at the end of Paragraph 6.20A to read as follows:

If through the acts of neglect on the part of the Contractor, any other Contractor or any Subcontractor shall suffer loss or damage on the Work, Contractor shall settle with such other Contractor or Subcontractor by agreement or arbitration if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against Owner on account of any damage alleged to have sustained, Owner shall notify Contractor, who shall indemnify and save harmless Owner against any such claims.

**ARTICLE 8 – OWNER'S RESPONSIBILITIES**

SC 8.02. DELETE Section 8.02 in its entirety, and replace with the following:

8.02. In case of termination of the employment of Engineer, Owner shall appoint an Engineer, whose status under the Contract Documents shall be that of the former Engineer.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION**

SC-9.03. Add a new paragraph immediately after Paragraph 9.03 of the General Conditions which is to read as follows:

9.03B. Owner will designate an agent to represent him/her at the Site who is not ENGINEER's agent or employee. The duties and responsibilities of the agent will be as enumerated in the agent's agreement with Owner, a copy of which will be furnished to Contractor upon written request.

**ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

SC-11.03.D. DELETE Paragraph 11.03D in its entirety and replace with the following:

11.03D. The unit price of an item of Unit Price Work shall be subject to re-evaluation and adjustment under the following conditions:

11.03D.1. If there is no corresponding adjustment with respect to any other item of Work; and

11.03D.2. If Contractor believes that Contractor has incurred additional expense as a result thereof; or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, either Owner or Contractor may make a claim for an adjustment in the Contract Price in accordance with Article 12 if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

**ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**

SC-13.05. Add a new paragraph immediately after paragraph 13.05 of the General Conditions to read as follows:

13.05B. If the Owner stops Work under Paragraph 13.05 Contractor shall be entitled to no extension of Contract Time or increase in Contract Price.

**ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION**

SC-14.02

Add a new sentence immediately after paragraph 14.02A.1 of the General Conditions, which is to read as follows:

The Contractor shall furnish evidence that payment received on the basis of materials and equipment not incorporated and suitably stored, has in fact been paid to the respective supplier(s) within sixty days of payment by Owner. Failure to provide such evidence of payment may result in the withdrawal of previous approval(s) and removal of the cost of related materials and equipment from the next submitted Application for Payment.

SC-14.03

Add two new paragraphs immediately after paragraph 14.03 of the General Conditions, which are to read as follows:

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

14.03.B. No materials or supplies for the Work shall be purchased by Contractor or Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. Contractor warrants that he/she has good title to all materials and supplies used by him/her in the Work, free from all liens, claims or encumbrances.

14.03.B. Contractor shall indemnify and save Owner harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, material, men, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this Contract. Contractor shall at Owner's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If Contractor fails to do so, then Owner may, after having served written notice on the said Contractor either pay unpaid bills, of which Owner has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonable sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to Contractor shall be resumed, in accordance with the terms of this Contract, but in no event shall the provisions of this section be construed to impose any obligations upon Owner to either Contractor or his/her Surety.

SC-14.02.

Add four new paragraphs immediately after paragraph 14.02.D.3 of the General Conditions, which are to read as follows:

14.02.D.4. Should Contractor neglect to pay any undisputed claims, made in writing to Owner within thirty days after completion of the Work, but continuing unsatisfied for a period of ninety days, Owner may pay such claim and deduct the amount thereof from the balance due Contractor. Owner may also, with the written consent of Contractor, use any monies retained, due, or to become due under this Contract for the purpose of payment for both labor and materials for the Work, for which claims have not been filed.

14.02.D.5. Security is provided both by the Payment Bond and the power of Owner to retain any monies for claims, but payment by one shall in no way impair or discharge the liability of the other.

14.02.D.6. Any and all liens for work and materials may be paid off by Owner within a reasonable time after filing for record in accordance with State and local laws, notice of such liens except where the claim on which the lien is filed is being litigated by Contractor, and in such case Owner may pay the amount of any final judgement or decree or any such claim within a reasonable time after such final judgement or decree shall be rendered.

14.02.D.7 All monies paid by Owner in settlement of liens as aforesaid, with the costs and expenses incurred by Owner in connection therewith, shall be charged to Contractor, shall bear interest at the rate of one and a half percent per month, and shall be deducted from the next payment due Contractor under the terms of this Contract.

SC – 14.07 DELETE Section 14.07 B. Review of Application and Acceptance and Replace with the following:

14.07B. Within 30 days of satisfactory completion of the work and receipt by Owner of Contractor's final application for payment, Owner will make final payment to the Contractor.

Payment hereunder is subject to satisfactory evidence of payment to all subcontractors and resolution of any and all claims and/or liens.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

SC – 14.08 DELETE Sections 14.08. Final Completion Delayed.

**ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION**

SC-15.02

Add a new paragraph immediately after paragraph 15.02A.4. of the General Conditions which is to read as follows:

15.02A.5 If Contractor abandons the Work, or sublets this Contract or any part thereof, without the previous written consent of Owner, or if the Contract or any claim there under shall be assigned by Contractor otherwise than as herein specified;

Delete Section 15.03A.3 and 15.03A.4 in their entirety.

**ARTICLE 16 - DISPUTE RESOLUTION**

SC-16.

Add a new sentence at the end of Article 16.01 of the General Conditions, which is to read as follows:

Contractor shall carry on the Work and maintain the progress schedule during the dispute resolution proceedings, unless otherwise agreed by him/her and Owner in writing.

Delete all references to arbitration in "General Conditions". Arbitration shall be in accordance with the provisions of the State Arbitration Laws (State of Rhode Island, General Laws, Title 37, Chapter 16), which shall take precedence and shall govern.

Every contract for the construction, alteration, repair or painting or demolition of any public building, sewer, water treatment or disposal project, highway, or bridge one party to which is the state, a city, a town, or an authority, a board, a public corporation, or any similar body created by statute or ordinance or any committee, agency, or subdivision of any of them which has a contract price of ten thousand dollars (\$10,000) or more and which is executed on or after July 1, 1967, out of, or concerning the performance or interpretation of, the contract as follows:

“All claims, disputes, and other matters in question arising out of or relating to this contract or the performance or interpretation thereof shall be submitted to arbitration. Arbitration shall be commenced by a demand in writing made by one party to the contract upon the other within a reasonable time after the dispute, claim, or other matter in question arose but in no event after payment in full of the contract price has been made and accepted. The written demand shall contain a statement of the question to be arbitrated and a detailed statement of each time or matter in dispute and the name of the arbitrator appointed by that party. The other party to the contract within (10) days of the receipt of the written demand shall appoint an arbitrator and give notice in writing thereof to the party who commenced arbitration. The two (2) arbitrators appointed by the parties shall within ten (10) days of the date of the appointment of the second arbitrator select a third arbitrator who shall be designated as chairperson and who immediately shall give written notice to the parties of his or her appointment. The third arbitrator shall select a time, date and place for hearing and give each party five (5) days notice in writing thereof. The date for hearing shall not be more than fifteen (15) days after the date of appointment of the third arbitrator. The arbitrators shall render their award in writing to each of the parties not more than thirty (30) days after the date hearing shall commence unless the parties shall otherwise agree in writing. In the event the party of whom arbitration is demanded shall fail to appoint his or her arbitrator within the time specified or the two (2) arbitrators appointed by the parties are unable to agree

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

on an appointment of the third arbitrator within the time specified, either party may petition the residing justice of the superior court to appoint a single arbitrator who shall hear the parties and make an award as provided herein. The petitioner shall give five (5) days notice in writing to the other party before filing his or her petition.”

**ARTICLE 17 - MISCELLANEOUS**

**SC-17.07**

Add a new paragraph immediately after paragraph 17.06 of the General Conditions, which is to read as follows:

17.07. Both the address given in the Price Proposal Form upon which this Agreement is founded, and Contractor's office at or near the site of the Work are hereby designated as places to either of which notices, letters, and other communications to Contractor shall be certified, mailed, or delivered. The delivering at the above named place, or depositing in a postpaid wrapper directed to the first-named place, in any post office box regularly maintained by the post office department, of any notice, letter or other communication to Contractor shall be deemed sufficient service thereof upon Contractor; and the date of said service shall be the date of such delivery or mailing. The first-named address may be changed at any time by an instrument in writing, executed and acknowledged by Contractor, and delivered to Owner and ENGINEER. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or other communication upon Contractor personally.

**WAGE RATES:**

**SC-17.08**

Add the following new paragraphs immediately after paragraph 17.07 of the Supplementary Conditions:

17.08. The requirements and provisions of all applicable laws and any amendments thereof or additions thereto as to the employment of labor, and to the schedule of minimum wage rates established in compliance with laws shall be a part of these Contract Documents. Copies of the wage schedules are included in the Contract Documents, if applicable under this Contract. If, after the Notice of Award, it becomes necessary to employ any person in a trade or occupation not classified in the wage determinations, such person shall be paid at not less than such rates as shall be determined by the officials administering the laws mentioned above. Such approved minimum rate shall be retroactive to the time of the initial employment of such person in such trade or occupation. Contractor shall notify Owner of his/her intention to employ persons in trades or occupations not classified in sufficient time for Owner to obtain approved rates for such trades or occupations.

17.08.1. The schedules of wages referred to above are minimum rates only, and Owner will not consider any claims for additional compensation made by Contractor because of payment by Contractor of any wage rate in excess of the applicable rate contained in these Contract Documents. All disputes in regard to the payment of wages in excess of these specified in the schedules shall be resolved by Contractor.

17.07.2 The said schedules of wages shall continue to be the minimum rates to be paid during the life of this Agreement and a legible copy of said schedules shall be kept posted in a conspicuous place at the site of the work.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**PART II - STATE GOVERNMENT PROVISIONS**

Each and every other provision of law or clause required by law to be inserted in this Contract shall be deemed to be also inserted herein in accordance with paragraph SC-3.1.1. of Supplementary Conditions.

**1.0 STATE OF RHODE ISLAND PROVISIONS**

1.1 The Owner and Contractor agree that all applicable State of Rhode Island Provisions which apply to the work to be performed under this Contract will be followed. The Contractor must inform him/herself of all pertinent State of Rhode Island Provisions with performing this work. The most recent revisions of any State Provisions will apply in this Contract. The most recent provisions supersede any conflicting provisions of this Contract.

1.2 State Wage Rates, As Applicable

END OF SECTION

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 00840**

**PAYMENT BOND**

- A. An example Payment Bond form is enclosed herein.

**END OF SECTION**



# PAYMENT BOND

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

CONTRACTOR (*Name and Address*):

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

OWNER (*Name and Address*):

## CONTRACT

Effective Date of Agreement:

Amount:

Description (*Name and Location*):

## BOND

Bond Number:

Date (*Not earlier than Effective Date of Agreement*):

Amount:

Modifications to this Bond Form:

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

## CONTRACTOR AS PRINCIPAL

## SURETY

\_\_\_\_\_  
Contractor's Name and Corporate Seal

\_\_\_\_\_  
Surety's Name and Corporate Seal

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

By: \_\_\_\_\_  
Signature (Attach Power of Attorney)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest: \_\_\_\_\_  
Signature

Attest: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

*Note: Provide execution by additional parties, such as joint venturers, if necessary.*

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
  - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
  - 2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
  - 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
  - 4.2 Claimants who do not have a direct contract with Contractor:
    1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
    2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
    3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. Reserved.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

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

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

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

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### 15. Definitions

15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

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

FOR INFORMATION ONLY – (*Name, Address, and Telephone*)

Surety Agency or Broker:

Owner's Representative (*Engineer or other*):

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 00850**

**NOTICE OF AWARD**

- A. An example Notice of Award is enclosed herein.

END OF SECTION

# Notice of Award

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

Project:	
Owner:	Owner's Contract No.:
Contract:	Engineer's Project No.:
Bidder:	
Bidder's Address: <i>[send Notice of Award Certified Mail, Return Receipt Requested]</i>	

You are notified that your Bid dated \_\_\_\_\_ for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for \_\_\_\_\_

*[Indicate total Work, alternates, or sections of Work awarded.]*

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

*[Insert appropriate data if unit prices are used. Change language for cost-plus contracts.]*

\_\_\_\_\_ copies of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

\_\_\_\_\_ sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within [15] days of the date you receive this Notice of Award.

1. Deliver to the Owner [\_\_\_\_\_] fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract security [Bonds] as specified in the Instructions to Bidders (Article 20), General Conditions (Paragraph 5.01), and Supplementary Conditions (Paragraph SC-5.01).
3. Other conditions precedent:  
\_\_\_\_\_

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

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

\_\_\_\_\_  
Owner  
By: \_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Title

Copy to Engineer

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 00860**

**NOTICE TO PROCEED**

- A. An example Notice to Proceed is enclosed herein.

END OF SECTION

# Notice to Proceed

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

Project: \_\_\_\_\_

Owner: \_\_\_\_\_

Owner's Contract No.: \_\_\_\_\_

Contract: \_\_\_\_\_

Engineer's Project No.: \_\_\_\_\_

Contractor: \_\_\_\_\_

Contractor's Address: *[send Certified Mail, Return Receipt Requested]*

You are notified that the Contract Times under the above Contract will commence to run on \_\_\_\_\_. On or before that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 4 of the Agreement, the date of Substantial Completion is \_\_\_\_\_, and the date of readiness for final payment is \_\_\_\_\_ [(or) the number of days to achieve Substantial Completion is \_\_\_\_\_, and the number of days to achieve readiness for final payment is \_\_\_\_\_].

Before you may start any Work at the Site, Paragraph 2.01.B of the General Conditions provides that you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds and loss payees) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

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

\_\_\_\_\_ *[add other requirements]*.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Given by:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Copy to Engineer

**DIVISION 1**  
**GENERAL REQUIREMENTS**





**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 01010**

**GENERAL DESCRIPTION OF WORK**

**PART 1      GENERAL**

**1.1      LOCATION OF WORK**

- A.      The location of the work is within the Woonsocket Water Division's water distribution system.
- B.      The Woonsocket Water Division is part of the City of Woonsocket Department of Public Works. The Woonsocket Water Division currently operates out of their water treatment facility at 1500 Manville Road in Woonsocket, RI.
- C.      The Woonsocket Water Department serves virtually all of the City of Woonsocket as well as customers in neighboring communities, as depicted on the Distribution System map provided as Appendix A to this Project Manual. There are approximately 9,450 services in the distribution system. The approximate number of services in each community are as follows:

<u>Community</u>	<u>No. of Services</u>
Woonsocket, RI	8,812
N. Smithfield, RI	576
Cumberland, RI	29
Blackstone, MA	23
Bellingham, MA	8

**1.2      SCOPE OF WORK**

- A.      Furnish cold water meters of various size (5/8-inch to 2-inch) and complimentary absolute encoder registers and radio frequency modules for the future replacement of existing water meters in the City of Woonsocket distribution system (installation of meters and encoders to be performed under separate contract).
- B.      The City's existing meter reading system is an Itron system that was installed in 2004. Meters installed at that time were standardized to Elster meters, but there are now multiple meters in the system due to recent meter replacements. Proposers should assume that all meters 2-inch and smaller will be replaced; however, the City may identify some meters to remain during construction.
- C.      The City estimates that fewer than 100 of these service connections are pit-style. Approximately 90% of the current meter interface units are interior installations. The City's preference is that new meter interface units be installed on the interior of structures, so long as meter reading efficiency and capability is not compromised.
- D.      Perform a propagation study to identify required number and location of data collection units, transmitters, and other hardware required for a fully functional, operational fixed network advanced meter infrastructure (AMI) system. A system map and customer addresses are provided in Appendix A.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

1. It is Owner's preference that the fixed network AMI system utilize as few data collection units and transmitters as possible while still meeting the project's intent for a substantially complete coverage of the water distribution system.

Woonsocket Water Division infrastructure that can be used for the siting of data collection units and transmitters include the following:

<b>Component</b>	<b>Location</b>	<b>Type</b>	<b>Height</b>	<b>Overflow Elevation</b>
Mount St. Charles Tank 5	485 Wells Street, Woonsocket	Steel, Elevated Bowl	136'	504.00'
Highland Industrial Park	765 Park East Drive, Cumberland	Steel Standpipe	102'	513.00'
Diamond Hill Tank	2373 Diamond Hill Road, Woonsocket	Steel, Elevated Bowl	143'	509.50'
Rhodes Avenue Tank	526 Rhode Avenue, Woonsocket	Steel, Elevated Bowl	148'	504.00'
Cobble Hill Tank	304 Mendon Road, Woonsocket	Concrete Standpipe	32.6'	393.00'
Charles G. Hamman WTP	1500 Manville Road, Woonsocket			

2. Other City-owned structures, including public schools and other public buildings, may be available for the siting of AMI infrastructure if required. An inventory of all public buildings in the service area is not available. Proposers shall identify locations where the propagation study indicates potential gaps. The City will assist the selected respondent in identifying additional locations for AMI infrastructure in the event there are gaps in coverage based on the facilities listed above.

- E. Furnish and install necessary components for a complete and operational cloud-based, Software-as-a-Service (SaaS) meter reading and data management system that operates both as a radio frequency automatic meter reading (AMR) system and as a fixed network AMI system. This includes fixed network base station, collectors, and all software and hardware required for a fully functional AMI system.
- F. Provide owner staff training and technical support as stipulated in these specifications.

### 1.3 WORK BY OTHERS

- A. Installation of meters is not included in this contract and will be performed by others under a subsequent contract procured by the City of Woonsocket. It is the City's intent to award both this contract at the same time as the separate contract for installation of meters and RF modules. An Invitation for Bids for the installation of meters and RF modules is anticipated to be advertised once a proposer has been selected. Both contracts will be presented to the Woonsocket City Council for authorization at the same regularly scheduled City Council Meeting at a date to be determined in the future.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**1.4 DEFINITIONS**

- A. Owner, where used in these Specifications, shall refer to the City of Woonsocket (City).
- B. Engineer, where used in these Specifications, shall refer to Pare Corporation.
- C. Contractor, where used in these Specifications, shall refer to the Proposer awarded a contract to perform the services described herein.
- D. Contract Documents, where used herein, shall refer to the Project Manual and Specifications.

**PART 2 PRODUCTS (Not Used)**

**PART 3 EXECUTION (Not Used)**

END OF SECTION

**PART 1 – GENERAL**

**1.1 EXTENT OF WORK**

- A. Measurement. The quantities to be measured under the various items in the Price Proposal will be those quantities of work completed in accordance with the Contract Documents. The methods of measurement will be as stated hereinafter for the individual items.
- B. Prices. The unit or lump sum prices for all items in the schedule of prices shall be full compensation for the work of the Contractor specified and shall include the cost of furnishing all materials, labor, tools and equipment and all work and expense incidental to and necessary to complete the work in accordance with the Contract Documents.

**1.2 WORK NOT PAID FOR SEPARATELY**

- A. Bonds. Payment for bonds required by the contract is included in the prices bid for the various items of work on the Price Proposal Form and no separate payment will be made thereof.
- B. Certifications. Payment for testing and certifications performed to ensure materials comply with the requirements of these Contract Documents shall not be paid for separately and are incidental to the individual items of work listed on the Price Proposal form.

**1.3 BID ITEMS**

- A. Appurtenant items of work specified which are required to complete the work but are not listed separately under the various applicable bid items of work, shall have no separate payment for such items. It shall be the responsibility of the Contractor to verify any missing or incomplete items.
- B. The Owner reserves the right to remove select bid items and to increase or decrease the unit quantity of bid items. The successful proposer is made aware that the unit price so stated on the Price Proposal form constitutes full compensation for that item, regardless of any increase or decrease in the unit quantity of that bid item. There is no guarantee of any minimum or maximum quantity for any bid item. Standards of the industry (e.g. renegotiation of the bid price due to a 25% increase or decrease in the unit quantity of the bid item) shall not be enforceable under this contract. Renegotiation of bid prices is solely at the discretion of the Owner.

**1.4 MEASUREMENT**

- A. The measurement of all quantities of items listed on the Price Proposal Form shall be done by the Contractor. The measurement will include proper and complete documentation of all items to the satisfaction of the Owner and Engineer prior to the submission for payment. The measurement submitted shall be in the same unit description listed on the Price Proposal Form.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**1.5 PAYMENT**

- A. Payments shall be made to the Contractor only after proper documentation of the unit quantity provided or percentage of work completed, and in accordance with the contract terms and conditions regarding payment.
- B. Payment for bid items shall include full compensation for all incidentals required for the complete installation of the completed product.
- C. Payment shall be made only for that work which is performed within the pay limits as defined by these specifications. No payment shall be made for work beyond these limits unless the work has been authorized by the Owner in writing.

**1.6 PARTIAL PAYMENT FOR PRODUCTS**

- A. There shall be no partial payment for products delivered but not installed, where installation is required under this Contract.

**1.7 EXTRA WORK**

- A. Extra work, if any, shall be performed and paid for in accordance with the Contract Agreement.

**1.8 BASE PRICE PROPOSAL - ITEM DESCRIPTIONS**

- A. Item 1, Mobilization and Demobilization
  - 1. The Work of this section shall be measured as specified at the Lump Sum price provided on the Price Proposal Form. The payable quantity will be for the preparatory work and operations which must be performed or for costs which must be incurred prior to beginning work, as well as costs associated with bonds and other “up-front” costs incurred by the Contractor. This includes costs associated with completing a propagation study, expended prior to contract award, for determining the number and location of data collection units required.
  - 2. The payment for work associated with mobilization and demobilization shall be a Lump Sum Price as provided on the Price Proposal Form for Item No. 1. Payment will be limited to 75% of the lump sum amount of this item until the work is complete and the contractor has completely demobilized. No more than 50% of the lump sum amount of this item shall be paid for in the Contractor’s first pay application. The lump sum price bid for this item shall not exceed 5 percent of the total of all items, excluding this item.
- B. Items 2 – 5, Furnish Non-Displacement Water Meters
  - 1. The Work of this section shall be measured as specified at the Unit Price for each meter furnished to the City of the various sizes provided for on the Price Proposal Form. The payable quantity will be for each complete meter assembly, inclusive of the meter, encoder, radio frequency (RF) module, and all other appurtenances required for a functional meter assembly.
  - 2. Meters furnished under Bid Items 2 – 5 shall be in accordance with the requirements of applicable AWWA standards. Fluidic-oscillator type meter, if proposed, shall meet the requirements of AWWA C713 and all applicable NSF standards.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

3. It is the Owner's intent to accept multiple deliveries of meters over the length of this contract. The Owner does not have a suitable location to store all meters to be used for this project. The Owner will coordinate with the selected proposer to establish a delivery schedule and frequency. The proposer shall base their unit prices assuming approximately equal monthly deliveries of meters for a 24-month period.
  4. The payment for work, equipment, and materials associated with furnishing water meters shall be at the Unit Prices provided for Item Nos. 2 – 5.
- C. Item 6, Fixed Network Base Station, Collectors, and Communication Equipment for Complete and Operational System
1. The Work of this section shall be measured as specified at the Lump Sum price for the furnishing of all necessary components of a fixed network AMI system, including base station, collectors, communication equipment, and all other appurtenances meeting the requirements of these Specifications and Technical Proposal submitted by Contractor.
  2. The payment for work associated with this item shall be at the Lump Sum price provided on the Price Proposal Form.
- D. Item 7, Software/Hardware Components for Complete and Operational Fixed Network AMI System
1. The Work of this section shall be measured as specified at the Lump Sum price for the furnishing of all necessary software and hardware components for a complete and operational fixed network AMI system, meeting the requirements of these Specifications and Technical Proposal submitted by Contractor. The system shall function over a cloud-based, Software-as-a-Service (SaaS) network.
  2. This item shall include the furnishing of user licenses for AMI system software to the Owner.
  3. This item shall include the furnishing of four (4) new personal computers and providing licenses for four (4) system users.
  4. The payment for work associated with this item shall be at the Lump Sum price provided on the Price Proposal Form.
- E. Item 8, Owner Staff Training for Fixed Network AMI System
1. The Work of this section shall be measured as specified at the Lump Sum price for providing necessary training to Owner's staff for the proper use and operation of AMI system in accordance with Section 15200 of these Specifications. Successful Proposer shall develop a detailed training plan for review and approval by Owner and Engineer. Proposers shall assume attendance by up to four (4) of Owner's staff at a total of four (4), 2-hour workshops. This is in addition to pre-implementation meetings conducted by the successful Proposer.
  2. The payment for work associated with this item shall be at the Lump Sum price provided on the Price Proposal Form.
- F. Item 9, Support Services
1. The Work of this section shall be measured as specified at the Lump Sum price for providing on-call, 24/7 technical support to Owner for the duration of this contract plus 1 year following the date of Substantial Completion.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

2. A toll-free telephone Help Desk shall be available between the hours of 8:00 AM and 6:00 PM Eastern Standard Time with after-hours telephone numbers made available as necessary. The Help Desk services shall include: fixed network RF AMR system device troubleshooting; software/operation troubleshooting; equipment returns and repair customer support; and loaner equipment processing support. Help Desk must maintain a four (4) hour acknowledgement of issue with a 24-hour maximum resolution time for standard issues.
3. The payment for work associated with this item shall be at the Lump Sum price provided on the Price Proposal Form.

G. Item 10, Distribution Side Automated Leak Detection System

1. The work of this section will be measured on a percentage basis for the installation of a Distribution Side Automated Leak Detection System as described in the Bidders response to Technical Question 39 on page 8 of "Technical Questionnaire Supplement 00410B" and/or as directed by the Engineer.
2. Payment for this item shall be made as a percentage of the Lump Sum price listed in the Bid Schedule. The price so stated constitutes full and complete compensation for all labor, materials, and equipment and for all other incidentals required to finish the work, complete and accepted by the Engineer.

END OF SECTION

**SECTION 01068 STATE REVOLVING FUND (SRF) LOAN PROGRAM REQUIREMENTS**

**PART 1 – GENERAL**

**1.1 GENERAL STATE AND FEDERAL REQUIREMENTS**

- A. The Contractor shall comply with all applicable Federal and State Requirements, including the following:
- a. Drinking Water State Revolving Fund Program - Contract Specifications Package (45 pages)
  - b. EPA Disadvantaged Business Enterprise (DBE) Program – DBE Forms (6 pages)
  - c. Good Faith Efforts to achieve MBE participation (2 pages)
  - d. State of Rhode Island Minority Business Enterprise Utilization Plan (1 page)
  - e. State of Rhode Island Minority Business Enterprise Compliance Form (1 page)
  - f. State Revolving Fund Sign (3 pages)
  - g. Davis Bacon Questionnaire (1 page)
  - h. Davis Bacon Requirements (9 pages)
  - i. Davis Bacon Wage Rates (11 pages)
  - j. Debarment & Suspension (Executive Order 12549) and Certification (3 pages)
  - k. EPA American Iron and Steel Memorandum (20 pages)
  - l. Rhode Island Certified Prevailing Wage Daily Log (1 page)
  - m. EPA Telecom Equipment Prohibition Memo (2 pages)

END OF SECTION





## Rhode Island Department of Health Center for Drinking Water Quality

### Drinking Water State Revolving Fund Program Relevant Federal and State Laws

#### A. Federal

- 1) Equal Employment Opportunity and Affirmative Action (Executive Order 11246)
  - i) OFCCP fact sheet.
  - ii) Equal Opportunity Clause and the Standard Federal Equal Employment Specifications.
  - iii) Notice of Non-Discrimination in Employment.
- 2) Non-discrimination in employment notice.
- 3) Assurance of compliance with Title VI of the Civil Rights Act of 1964 and Section 13 of the FWPCA Amendments of 1972 (EPA form 4700-1).
- 4) Affirmative steps for soliciting MBE/WBE (40 CFR 31.36(e))

Applicable cross-cutting Federal authorities for projects funded through SRF programs are made available at [http://water.epa.gov/grants\\_funding/dwsrf/xcuts.cfm](http://water.epa.gov/grants_funding/dwsrf/xcuts.cfm). Additional information is provided in the United States Environmental Protection Agency's cross-cutting handbook available at <https://www.epa.gov/sites/production/files/2015-08/documents/crosscutterhandbook.pdf>.

#### B. State of Rhode Island

- 1) RIGL 37-2.1, Domestic Steel
- 2) RIGL 37-12, Contractors Bonds
- 3) RIGL 37-12.1, Substitution of Security for Retained Earnings of Architects and Engineers.
- 4) RIGL 37-13, Labor and Payment of Debts by Contractors
  - i) Prevailing Wage Rates
- 5) RIGL 37-14.1, Minority Business Enterprise
  - i) Regulations Governing Participation by Minority Business Enterprises in State Funded and Directed Public Construction Projects, Construction Contracts and Procurement Contracts Goods and Services.
- 6) RIGL 37-16, Public Works Arbitration
- 7) RIGL 45-55, Award of Municipal Contracts

**NOTE:** This package is prepared by DOH as a service of the DWSRF program. While every attempt at accuracy has been made, these are not certified true copies of the laws presented. **The responsibility for compliance with all applicable provisions of Federal and State laws and regulations relating to the bidding, award, and performance of contracts is the applicant's and the bidder's.** Certified true and complete copies of any Rhode Island laws and regulations may be obtained from the Office of the Secretary of State.

# **Employment Standards Administration Office of Federal Contract Compliance Programs**

## **Fact Sheet EXECUTIVE ORDER 11246**

EEO and Affirmative Action Guidelines for Federal Contractors Regarding Race, Color, Gender, Religion, and National Origin.

### **BASIC PROVISIONS**

Since 1965, the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has been committed to ensuring that Government contractors comply with the equal employment opportunity (EEO) and the affirmative action provisions of their contracts.

OFCCP administers and enforces Executive Order 11246, as amended, which prohibits federal contractors and federally-assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin.

The Executive Order also requires Government contractors to take affirmative action to insure that equal opportunity is provided in all aspects of their employment.

### **AFFIRMATIVE ACTION REQUIREMENTS**

Each Government contractor with 50 or more employees and \$50,000 or more in government contracts is required to develop a written affirmative action program (AAP) for each of its establishments.

A written affirmative action program helps the contractor identify and analyze potential problems in the participation and utilization of women and minorities in the contractor's workforce.

If there are problems, the contractor will specify in its AAP the specific procedures it will follow and the good faith efforts it will make to provide equal employment opportunity.

Expanded efforts in outreach, recruitment, training and other areas are some of the affirmative steps contractors can take to help members of the protected groups compete for jobs on equal footing with other applicants and employees.

Affirmative action is not preferential treatment. It does not mean that unqualified persons should be hired or promoted over other people. What affirmative action does mean is that positive steps must be taken to ensure equal employment opportunity for traditionally disadvantaged groups.

### **ENFORCEMENT AND COMPLIANCE**

#### **Compliance Reviews**

OFCCP conducts compliance reviews to investigate the employment practices of Government contractors. During a compliance review, a compliance officer examines the contractor's affirmative action program; checks personnel, payroll, and other employment records; interviews employees and company officials; and investigates virtually all aspects of employment in the company.

The investigator also checks to see whether the contractor is making special efforts to achieve equal opportunity through affirmative action. If problems are discovered, OFCCP will recommend corrective action and suggest ways to achieve equal employment opportunity.

#### **Complaint Investigations**

Individuals may file complaints if they believe they have been discriminated against by federal contractors or subcontractors. Complaints also may be filed by organizations on behalf of the person or persons affected.

Complaints must be filed within 180 days from the date of the alleged discrimination, although filing time can be extended for a good reason.

If a complaint filed under Executive Order 11246 involves discrimination against only one person, OFCCP will normally refer it to the EEOC. Cases involving groups of people or indicating patterns of discrimination are generally investigated and resolved by OFCCP. Complaints may be filed directly with any of OFCCP's regional or district offices throughout the country, or with OFCCP in Washington, D.C.

### **Compliance Assistance**

To help contractors understand their contractual obligations for EEO and affirmative action, OFCCP provides technical assistance. District office staff offers guidance to contractors on how to develop an affirmative program through company seminars, training programs held in conjunction with industry liaison groups, and one-on-one consultations on affirmative action practices and procedures.

### **Enforcing Contract Compliance**

When a compliance review discloses problems, OFCCP attempts to work with the contractor, often entering into a conciliation agreement. A conciliation agreement may include back pay, job offers, seniority credit, promotions or other forms of relief for victims of discrimination. It may also involve new training programs, special recruitment efforts, or other affirmative action measures.

When conciliation efforts are unsuccessful, OFCCP refers the case to the Office of the Solicitor for enforcement through administrative enforcement proceedings. A contractor cited for violating EEO and affirmative action requirements may have a formal hearing before an administrative law judge.

If conciliation is not reached before or after the hearing, sanctions may be imposed. For example, a contractor could lose its government contracts or subcontracts or be debarred, i.e., declared ineligible for any future government contracts.

### **Further Information**

For more information about contract compliance, filing complaints, or compliance assistance, contact any of OFCCP's regional or district offices. All offices are listed in telephone directories under U.S. Department of Labor, Employment Standards Administration, Office of Federal Contract Compliance Programs.

# EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

Executive Order 11246  
(Excerpts from 41 CFR 60 Parts 1 and 4)

## 41 CFR 60-1.4 - Equal opportunity clause

(b) Federally assisted construction contracts. Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following *equal opportunity clause*:

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. Such action shall include but not be limited to the following:
- (2) Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will

permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) *Subcontracts.* Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) *Incorporation of the equal opportunity clause by reference.* The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director may designate.

(e) *Incorporation by operation of the order.* By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

## **41 CFR 60-4.3 - Equal opportunity clauses**

(a) The equal opportunity clause published at 41 CFR 60-1.4(a) of this chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60-1.4(b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers, all applicants and all non-construction contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to 60-4.6 of this part and in construction subcontracts in excess of \$10,000 necessary in whole or in part to the performance of non-construction Federal contracts and subcontracts covered under the Executive order.

### *Standard Federal Equal Employment Opportunity Construction Contract Specifications* (Executive Order 11246)

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  - d. "Minority" includes:
    - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
    - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
  - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
  - f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
  - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
  - h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
  - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations



- serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to

comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60-4 become effective.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65978, Oct. 3, 1980]

**NOTICE TO LABOR UNIONS OR OTHER ORGANIZATIONS OF WORKERS**

**NON-DISCRIMINATION IN EMPLOYMENT**

TO: \_\_\_\_\_  
(Name of Union or Organization of Workers)

The undersigned currently holds contract(s) with \_\_\_\_\_  
(Name of Applicant)

involving funds or credit of the U.S. Government of (a) subcontract(s) with a prime contractor holding such contract(s).

You are advised that under the provisions of the above contract(s) or subcontract(s) and in accordance with Executive Order 11246, dated September 24, 1965, the undersigned is obliged not to discriminate against any employee or applicant for employment because of race, age, handicap, veteran status, color, creed, or national origin. This obligation not to discriminate in employment includes, but is not limited to, the following:

**HIRING, PLACEMENT, UPGRADING, TRANSFER, OR DEMOTION,  
RECRUITMENT, ADVERTISING, OR SOLICITATION FOR  
EMPLOYMENT TRAINING DURING EMPLOYMENT, RATES OF PAY  
OR OTHER FORMS OF COMPENSATION, SELECTION FOR TRAINING  
INCLUDING APPRENTICESHIP, LAYOFF, OR TERMINATION.**

This notice is furnished you pursuant to the provisions of the above contract(s) or subcontract(s) and Executive Order 11246.

**COPIES OF THIS NOTICE WILL BE POSTED BY THE UNDERSIGNED IN CONSPICUOUS  
PLACES AVAILABLE TO EMPLOYEES OR APPLICANTS FOR EMPLOYMENT.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Contractor or Subcontractor)

\_\_\_\_\_  
(Date)

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY**

**ASSURANCE OF COMPLIANCE  
FOR  
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964  
AND  
SECTION 13 OF THE FWPCA AMENDMENTS OF 1972**

NAME AND ADDRESS OF APPLICANT/RECIPIENT ( <i>Hereinafter called ASSUROR</i> )	GRANT IDENTIFICATION NUMBER <i>(To be completed by EPA)</i>	GRANT AMOUNT REQUESTED \$
	TYPE OF GRANT <input type="checkbox"/> DEMONSTRATION <input type="checkbox"/> RESEARCH <input type="checkbox"/> TRAINING <input type="checkbox"/> OTHER ( <i>Specify</i> ):	
	CHECK ONE: <input type="checkbox"/> NEW <input type="checkbox"/> CONTINUATION	

HEREBY AGREES THAT IT will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements of the U.S. Environmental Protection Agency (*hereinafter called "EPA"*) issued pursuant to that title, to the end that in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Assuror receives financial assistance from EPA and hereby gives assurance that it will now and hereafter take all necessary measures to effectuate this agreement.

HEREBY AGREES THAT IT will comply with all applicable requirements of Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) and all requirements of EPA issued pursuant to that section, to the end that in accordance with that section of that Act, no person in the United States shall, on the ground of sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity under the said Federal Water Pollution Control Act Amendments for which the Assuror receives assistance from EPA and hereby gives assurance that it will now and hereafter take all necessary measures to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of financial assistance extended to the Assuror by EPA, this Assurance obligates the Assuror, or, in the case of any transfer of such property, any transferee for the period during which the real property or structure is used for a purpose involving the provisions of similar services or benefits. If any personal property is so provided, this Assurance obligates the Assuror for the period during which it retains ownership or possession of the property. In all other cases, this Assurance obligates the Assuror for the period during which the financial assistance is extended to it by EPA.

THE ASSURANCE is given in consideration of and for the purpose of obtained any and all Federal grants, loans, contracts, property discounts or other financial assistance extended after the date hereof to the Assuror by EPA including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Assuror recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance and that the United States shall reserve the right to seek judicial enforcement of this Assurance. The Assurance is binding on the Assuror, its successors, transferees, and assignees, and the person or persons whose signature appear below are authorized to sign this Assurance on behalf of the Assuror.

The obligations assumed by the Assuror hereunder are in addition to any obligations which may be imposed to the Assuror by any applicable regulation now outstanding or which may hereafter be adopted by EPA to effectuate any provision or goal of the said Title VI and all applicable requirements of the said Section 13, and no part of this Assurance shall be read so as to in any way detract from or modify any obligation which may be imposed on the Assuror by any such regulation standing alone.

SIGNATURE OF ASSUROR BY PRESIDENT, CHAIRMAN OF BOARD OR COMPARABLE AUTHORIZED  
OFFICIAL

DATE

## **CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISE**

### **40 CFR 31.36(e)**

40 CFR 31.36(e) – Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

(1) The grantee and sub-grantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing the total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take affirmative steps listed in paragraphs (e)(2)(i) through (v) of this section.

# TITLE 37

## CHAPTER 2.1 DOMESTIC STEEL

### Section

37-2.1-1.	Short Title
37-2.1-2.	Purpose
37-2.1-3.	Purchase of steel and steel products
37-2.1-4.	Payment
37-2.1-5.	Definitions

#### **37-2.1-1. Short title.**

This chapter shall be known and may be cited as the "Steel Products Procurement Act".

#### **37-2.1-2. Purpose.**

- (a) This chapter shall be deemed to be an exercise of the police powers of the state for the protection of the health, safety, and general welfare of the people of the state.
- (b) It is hereby determined by the general assembly of Rhode Island and declared as a matter of legislative findings that:
  - (1) The United States is one of the leading countries in the production and use of steel and its allied products;
  - (2) The use of steel products constitutes a major industry of the United States and, as such, provides the jobs and family incomes of millions of persons in the United States;
  - (3) The taxes paid to Rhode Island and the United States by employers and employees engaged in the production and sale of steel products are one of the largest single sources of public revenues in this country;
  - (4) It has, for many years, been the policy of the state to aid and support the development and expansion of industry in the United States in order to foster the economic well-being of the state and its people; and
  - (5) The economy, general welfare, and national security of the United States, are inseparably related to the preservation and development of the steel industry in the United States.
- (c) The general assembly therefore declares it to be the policy of the state that all public officers and agencies should, at all times, aid and promote the development of the steel industry of the United States in order to stimulate and improve the economic well-being of the state and its people.

#### **37-2.1-3. Purchase of steel and steel products.**

- (a) Every public agency shall require that every contract document for the construction, reconstruction, alteration, repair, improvement, or maintenance of public works contain a provision that, if any steel products are to be used or supplied in the performance of the contract, only steel products as herein defined shall be used or supplied in the performance of the contract or any subcontracts thereunder.
- (b) This section shall not apply in any case where the head of the public agency, in writing, determines that steel products as herein defined are not produced in, or readily available in the United States or that such steel products shall not exceed fifteen percent (15%) of the costs of any other steel products obtainable nationally or internationally.

#### **37-2.1-4. Payment.**

No public agency shall authorize, provide for, or make any payments to any person under any contract containing the provision required by 37-2.1-3 unless the public agency is satisfied that such person has fully complied with that provision. Any such payments made to any person by any public agency which should not have been made, as a result of this section, shall be recoverable directly from the contractor or subcontractor who did not comply with 37-2.1-3 by either such public agency or the attorney general upon suit filed in the court of any county.

### **37-2.1-5. Definitions.**

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

- (a) "Person" means natural persons as well as corporations, partnerships, business units, and associations;
- (b) "Public agency" means (1) the state and its departments, boards, commissions and agencies, (2) cities, towns, school districts, and any other governmental unit or district, (3) any and all other public bodies, authorities, officers, agencies, or instrumentalities, whether exercising a governmental or proprietary function;
- (c) "Public works" means steel to construct, frame or reinforce any public structure, building, highway, waterway, street, bridge, transit system, airport, or other betterment, work or improvement, whether of a permanent or temporary nature, and whether for governmental or proprietary use;
- (d) "Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel making process;
- (e) "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

# TITLE 37

## CHAPTER 12 CONTRACTORS' BONDS

### Sections

- 37-12-1. Contractors required to give bond – Terms and conditions.
- 37-12-2. Rights of persons furnishing labor and materials.
- 37-12-3. Remedies of creditors and state – Priority of claims.
- 37-12-4. Intervention by creditor in suit brought by state.
- 37-12-5. Time limitation on creditors' actions.
- 37-12-6. Intervention in suit brought by creditor – Consolidation of suits.
- 37-12-7. Notice of Pendency of Suit
- 37-12-8. Certified copies of documents.
- 37-12-9. Payment into court by surety – Discharge.
- 37-12-10. Retainers relating to contracts for public works or sewer or water main construction.
- 37-12-11. Substitution of securities for retained earnings.

**§ 37-12-1. Contractors required to give bond – Terms and conditions.** – Every person (which word for the purposes of this chapter shall include a co-partnership, a number of persons engaged in a joint enterprise, or a corporation), before being awarded a contract by the department of transportation or by the department of administration, as the case may be, and every person awarded such a contract as a general contractor or construction or project manager for the construction, improvement, completion, or repair of any public road or portion thereof or of any bridge in which the contract price shall be in excess of fifty thousand dollars (\$ 50,000), or for a contract for the construction, improvement, completion, or repair of any public building, or portion thereof, shall be required to furnish to the respective department a bond of that person to the state, with good and sufficient surety or sureties (hereafter in this chapter referred to as surety), acceptable to the respective department, in a sum not less than fifty percent (50%) and not more than one hundred percent (100%) of the contract price, conditioned that the contractor, principal in the bond, the person's executors, administrators, or successors, shall in all things, well and truly keep and perform the covenants, conditions, and agreements in the contract, and in any alterations thereof made as therein provided, on the person's part to be kept and performed, at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the state, the respective department, and all of its officers, agents, and employees, as therein stipulated, and shall also promptly pay for all such labor performed or furnished and for all such materials and equipment furnished, (which as to equipment shall mean payment of the reasonable rental value, as determined by the respective department, of its use during the period of its use), as shall be used in the carrying on of the work covered by the contract, or shall see that they are promptly paid for, whether or not the labor is directly performed for or furnished to the contractor or is even directly performed upon the work covered by the contract, and whether or not the materials are furnished to the contractor or become component parts of the work, and whether or not the equipment is furnished to the contractor or even directly used upon the work. The bond shall contain the provisions that it is subject to all such rights and powers of the respective department and such other provisions as are set forth in the contract and the plans, specifications, and proposal incorporated by reference in the contract, and that no extension of the time of performance of the contract or delay in the completion of the work thereunder or any alterations thereof, made as therein provided, shall invalidate the bond or release the liability of the surety thereunder. Waiver of the bonding requirements of this section is expressly prohibited.

### **37-12-2. Rights of persons furnishing labor and materials.**

Every person who shall have performed labor and every person who shall have furnished or supplied labor, material, or equipment in the prosecution of the work provided for in the contract, in respect of which a payment bond is furnished under § 37-12-1, and who has not been paid in full therefor before the expiration of a period of ninety (90) days after the day on which the last of the labor was performed or furnished by him or her, or material or equipment furnished or supplied by him or her for which a claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of the suit and to prosecute the action to final execution and judgment for the sum or sums justly due him or her; provided, however, that any person having direct contractual relationship with a subcontractor but no contractual relationship express or implied with the contractor



furnishing the payment bond shall have a right of action upon the payment bond upon giving written notice to the contractor within ninety (90) days from the date on which the person furnished or performed the last of the labor, or furnished or supplied the last of the material or equipment for which the claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the labor was furnished or performed or the material or equipment was furnished or supplied. The notice shall be served by mailing the same by certified mail, postage prepaid, in an envelope addressed to the contractor at any place he or she maintains an office, conducts his or her business, or his or her residence.

### **37-12-3. Remedies of creditors and state - Priority of claims.**

The remedy on the bond shall be by a civil action brought in the superior court for the counties of Providence and Bristol and in any suit brought on the bond the rights of the state shall be prior to those of all creditors. The rights of persons who shall have performed labor as aforesaid shall be prior to the rights of all other creditors, and there shall be no priorities among laborers or among other creditors under the bond. The state, either after having recovered a judgment against the contractor on the contract or without having recovered a judgment, may bring a suit on the bond against the contractor and surety on the bond, and may join as parties defendant in the suit any persons claiming to have rights under the bond as creditors; and, if it has not brought such a suit, it may at any time before a final and conclusive decree, intervene and become a party in any suit brought, as hereafter provided in this chapter, by any person claiming to be a creditor under the bond.

### **37-12-4. Intervention by creditor in suit brought by state.**

Any person claiming to be a creditor under the bond may at any time intervene and become a party in any pending suit brought as aforesaid by the state on the bond, and by so intervening may have the rights to the person adjudicated in the suit.

### **37-12-5. Time limitation on creditors' actions.**

No suit instituted under § 37-12-2 shall be commenced after the expiration of two (2) years, or under the maximum time limit as contained within any labor or material payment bond required under § 37-12-1, whichever period is longer, after the day on which the last of the labor was furnished or performed or material or equipment was furnished or supplied by any person claiming under the section.

### **37-12-6. Intervention in suit brought by creditor - Consolidation of suits.**

When a suit has been so brought on the bond by a person claiming to be a creditor under the bond and is pending, any other person claiming to be a creditor under the bond may intervene and become a party in the first suit thus brought and pending and by so intervening may have the rights of the other person adjudicated in the suit. If two (2) or more of the suits be filed in the court on the same day, the one in which the larger sum shall be claimed shall be regarded as the earlier suit. All suits brought upon the bond as provided in this chapter shall be consolidated together by the court and heard as one suit.

### **37-12-7. Notice of pendency of suit.**

In any suit brought under the provisions of this chapter such personal notice of the pendency of the suit as the court may order shall be given to all such known creditors and persons claiming to be creditors under the bond as shall not have entered their appearances in the suit and, in addition to the notice, notice of the pendency of the suit shall be given by publication in some newspaper published in this state of general circulation in the city or town or every city or town in which the work covered by the contract was carried on, once a week for three (3) successive weeks, in such form as the court may order. The court, however, may dispense with the notices if satisfied that sufficient notices shall have been given in some other suit brought under the provisions of this chapter.

### **37-12-8. Certified copies of documents.**

Any person claiming to be a creditor under the bond and having filed a claim with the respective department, in accordance with the requirements of § 37-12-2, shall have the right, at any time when the person could under this chapter file a suit or intervene in a pending suit, to require the respective department to furnish to the person certified copies of the contract, proposal, plans specifications, and bond.

### **37-12-9. Payment into court by surety - Discharge.**

The surety on the bond may pay into the registry of the court, for distribution among those who may be or become entitled thereto under the decree of the court, the penal sum named in the bond less any amount which the surety

may have paid to the state in satisfaction of the liability of the surety to the state under the bond, and then shall be entitled to be discharged from all further liability under the bond.

### **37-12-10. Retainers relating to contracts for public works or sewer or water main construction.**

(a) Upon substantial completion of the work required by a contract aggregating in amount less than five hundred thousand dollars (\$ 500,000) with any municipality, or any agency or political subdivision thereof, for the construction, reconstruction, alteration, remodeling, repair, or improvement of sewers and water mains, or any public works project defined in, the awarding authority may deduct from its payment a retention to secure satisfactory performance of the contractual work not exceeding five percent (5%) of the contract price unless otherwise agreed to by the parties. Upon substantial completion of the work required by a contract aggregating in an amount of five hundred thousand dollars (\$ 500,000) or greater with any municipality, or any agency or political subdivision thereof, for the construction, reconstruction, alteration, remodeling, repair, or improvement of sewers and water mains, or any public works project defined in § 37-13-1, the awarding authority may deduct from its payment a retention to secure satisfactory performance of the contractual work not exceeding five percent (5%) of the contract price. In the case of periodic payments with respect to contracts less than the aggregate amount of five hundred thousand dollars (\$ 500,000), the awarding authority may deduct from its payment a retention to secure satisfactory performance of the contractual work not exceeding five percent (5%) of the approved amount of any periodic payment unless otherwise agreed to by the parties. In the case of periodic payments with respect to contracts in the aggregate amount of five hundred thousand dollars (\$ 500,000) or greater, the awarding authority may deduct from its payment a retention to secure satisfactory performance of the contractual work not exceeding five percent (5%) of the approved amount of any periodic payment.

(b) The retainage shall be paid to any contractor or subcontractor within ninety (90) days of the date the work is accepted by the awarding authority unless a dispute exists with respect to the work. If payment is not made within ninety (90) days for any reason other than a dispute, which, if resolved and it is not the fault of the contractor, interest shall be assessed at the rate of ten percent (10%) per annum on all money which is to be paid to the contractor or subcontractor.

(c) The retainage shall be paid to any contractor or subcontractor within ninety (90) days of the date his or her work is completed and accepted by the awarding authority. If payment is not made, interest shall be assessed at the rate of ten percent (10%) per annum.

(d) There shall also be deducted and retained from the contract price an additional sum sufficient to pay the estimated cost of municipal police traffic control on any public works project. Municipalities shall directly pay the officers working traffic details and shall bill and be reimbursed by the withholding authority for which the contract is being performed every thirty (30) days until the project is complete.

(e) Notwithstanding the foregoing, with respect to projects located within the town of Warren, the withholding authority shall hold an amount from the contract price which shall be reasonably sufficient to pay the estimated cost of municipal police traffic control. The withholding authority shall pay to the town of Warren within seventy-two (72) hours of written demand the actual costs of police traffic control associated with said project on an ongoing basis.

### **37-12-11. Substitution of securities for retained earnings.**

(a) Where any public works contract as defined by § 37-13-1 provides for the retention of earned estimates by the state of Rhode Island, the contractor may, from time to time, withdraw the whole or any portion of the amount retained for payments to the contractor pursuant to the terms of the contract, upon depositing with the general treasurer either; (1) United States treasury bonds, United States treasury notes, United States treasury certificates of indebtedness, or United States treasury bills; (2) Bonds or notes of the state of Rhode Island ; or (3) Bonds of any political subdivision in the state of Rhode Island.

(b) No amount shall be withdrawn in excess of the market value of the securities at the time of deposit or of the par value of the securities, whichever is lower. The general treasurer shall, on a regular basis, collect all interest or income on the obligations so deposited and shall pay the interest or income, when and as collected, to the contractor who deposited the obligations. If the deposit is in the form of coupon bonds, the general treasurer shall deliver each coupon as it matures to the contractor. Any amount deducted by the state, or by any public department or official thereof, pursuant to the terms of the contract, from the retained payments otherwise due the contractor, shall be

deducted, first from that portion of the retained payments for which no security has been substituted, then from the proceeds of any deposited security. In the latter case, the contractor shall be entitled to receive interest, coupons, or income only from those securities which remain after the amount has been deducted. The securities so deposited shall be properly endorsed by the contractor in such manner so as to enable the general treasurer to carry out the provisions of this section.

## TITLE 37

### CHAPTER 12.1 SUBSTITUTION OF SECURITY FOR RETAINED EARNINGS OF ARCHITECTS AND ENGINEERS

#### Sections

- 37-12.1-1. Definition of Terms.
- 37-12.1-2. Substitution of security for retained earnings by designers.
- 37-12.1-3. Deduction from retained earnings.
- 37-12.1-4. Endorsement on securities.
- 37-12.1-5. Applicability.

#### **37-12.1-1. Definition of terms.**

Terms used in this chapter shall be construed as follows:

- (a) "Designers", means any person, firm or corporation duly authorized pursuant to the laws of this state to engage in the practice of architecture and/or engineering within this state.
- (b) "Public works contract" means a contract to perform design or planning services by a designer with the state or any agency or governmental subdivisions thereof.
- (c) "Retained earnings" means any moneys or earned estimates withheld from a designer pursuant to the terms of a public works contract.

#### **37-12.1-2. Substitution of security for retained earnings by designers.**

(a) Where any public works contract provides for the holding of retained earnings from a designer, the designer may from time to time withdraw the whole or any portion of the amount retained upon either depositing with the general treasurer:

- (1) United States treasury bonds, United States treasury notes, United States treasury certificates of indebtedness, or United States treasury bills;
- (2) Bonds or notes of the state of Rhode Island; or
- (3) Bonds of any political subdivision of the state of Rhode Island.

(b) With respect to the deposit of securities, the general treasurer shall, on a regular basis, collect all interest or income on the securities so deposited and shall pay the interest or income when and as collected to the designer depositing the securities. If the security is in the form of coupon bonds, the general treasurer shall deliver each coupon as it matures to the designer.

#### **37-12.1-3. Deduction from retained earnings.**

In the event that pursuant to the terms of the public works contract it is necessary to deduct any sum from retained earnings, the state or governmental unit or agency thereof shall first apply such deduction against sums not withdrawn and thereafter from the proceeds of the sale of any securities deposited or from the income earned on such securities, whichever is applicable.

#### **37-12.1-4. Endorsement on securities.**

All securities deposited with the general treasurer pursuant to this chapter shall be properly endorsed by the designer in such manner as to enable the general treasurer to carry out the provisions of this chapter.

#### **37-12.1-5. Applicability.**

This chapter shall apply to all retained earnings held pursuant to any public works contract as of [June 16, 1991].

# TITLE 37

## CHAPTER 13 LABOR AND PAYMENT OF DEBTS BY CONTRACTORS

### Sections

- 37-13-1. "Public Works" defined
- 37-13-2. "Contractor" defined – information required.
- 37-13-3. Contractors subject to provisions – Weekly payment of employees.
- 37-13-3.1 State public works contract apprenticeship requirements
- 37-13-4. Provisions applicable to public works contracts – List of Subcontractors.
- 37-13-5. Payment for trucking or materials furnished – Withholding of sums due.
- 37-12-6. Ascertainment of prevailing rate of wages and other payments – Specification of rate in call for bids and in contract.
- 37-13-7. Specification in contract of amount and frequency of payment and wages.
- 37-13-8. Investigation and determination of prevailing wages – Filing of schedule.
- 37-13-9. Statutory provisions included in contracts.
- 37-13-10. Overtime compensation.
- 37-13-11. Posting of prevailing wage rates.
- 37-13-12. Wage records of contractors.
- 37-13-12.1. Obstruction of enforcement.
- 37-13-12.2. Subpoena powers.
- 37-13-12.3. Compelling obedience to subpoenas.
- 37-13-12.4. Penalty for violations.
- 37-13-13. Furnishing payroll record to director of labor.
- 37-13-13.1. Audits of wage records of out of state contractors and subcontractors.
- 37-13-14. Contractor's bond.
- 37-13-14.1. Enforcement – Hearings.
- 37-13-15. Review.
- 37-13-16. Termination of work on failure to pay agreed wages – Completion of work.
- 37-13-17. Private right of action to collect wages or benefits

### **37-13-1. "Public works" defined.**

"Public works" as used in this chapter shall mean any public work consisting of grading, clearing, demolition, improvement, completion, repair, alteration, or construction of any public road or any bridge, or portion thereof, or any public building or portion thereof, or any heavy construction, or any public works projects of any nature or kind whatsoever.

### **37-13-2. "Contractor" defined - Information required.**

The term "contractor" as used in this chapter shall mean the bidder whose bid has been accepted by an authorized agency or awarding authority as the bidder possessing the skills, ability, and integrity necessary to the faithful performance of the contract or work, and who shall certify that he or she is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the contract or work. Essential information in regard to qualifications shall be submitted in such form to the awarding authority and the director of labor and training as the director of labor and training shall require. The authorized agency or awarding authority shall reserve the right to reject all bids, if it be in the public interest to do so.

### **37-13-3. Contractors subject to provisions - Weekly payment of employees.**

All contractors, who have been awarded contracts for public works by an awarding agency or authority of the state or of any city, town, committee, or by any person or persons therein, in which state or municipal funds are used and of which the contract price shall be in excess of one thousand dollars (\$1,000) whether payable at the time of the signing of the contract or at a later date, and their subcontractors, on such public works shall pay their employees at weekly intervals and shall comply with the provisions set forth in 37-13-4 - 37-13-14, inclusive, and 37-13-16.

### **37-13-3.1. State public works contract apprenticeship requirements.**

Notwithstanding any laws to the contrary, all general contractors and subcontractors who perform work on any public works contract awarded by the state after passage of this act and valued at one million dollars (\$ 1,000,000) or more shall employ apprentices required for the performance of the awarded contract. The number of apprentices shall comply with the apprentice to journeyman ratio for each trade approved by the apprenticeship council of the department of labor and training. To the extent that any of the provisions contained in this section conflict with the requirements for federal aid contracts, federal laws and regulations shall control.

### **37-13-4. Provisions applicable to public works contracts - Lists of subcontractors.**

All public works shall be done by contract, subject to the same provisions of law relating thereto and to the letting thereof, which are applicable to similar contracts of the awarding authority or authorized agency, hereinafter called the "proper authority," in the general location where the work is to be performed and which are not contrary to the provisions of 37-13-1 - 37-13-14, and 37-13-16. Each contractor after the award of a contract for public works shall submit to the proper authority a list of his or her subcontractors of any part or all of the work. The list shall be submitted in such manner or form as the proper authority shall uniformly require from contractors in all public works.

### **37-13-5. Payment for trucking or materials furnished - Withholding of sums due.**

A contractor or subcontractor on public works authorized by a proper authority shall pay any obligation or charge for trucking and material which have been furnished for the use of the contractor or subcontractor, in connection with the public works being performed by him or her, within ninety (90) days after the obligation or charge is incurred or the trucking service has been performed or the material has been delivered to the site of the work, whichever is later. When it is brought to the notice of the proper authority in a city or town, or the proper authority in the state having supervision of the contract, that the obligation or charge has not been paid by the contractor or subcontractor, the proper authority may deduct and hold for a period not exceeding sixty (60) days, from sums of money due to the contractor or subcontractor, the equivalent amount of such sums certified by a trucker or material man creditor as due him or her, as provided in this section, and which the proper authority determines is reasonable for trucking performed or materials furnished for the public works.

### **37-13-6. Ascertainment of prevailing rate of wages and other payments - Specification of rate in call for bids and in contract.**

Before awarding any contract for public works to be done, the proper authority shall ascertain from the director of labor and training the general prevailing rate of the regular, holiday, and overtime wages paid and the general prevailing payments on behalf of employees only, to lawful welfare, pension, vacation, apprentice training, and educational funds (payments to the funds must constitute an ordinary business expense deduction for federal income tax purposes by contractors) in the city, town, village, or other appropriate political subdivision of the state in which the work is to be performed, for each craft, mechanic, teamster, laborer, or type of worker needed to execute the contract for the public works. The proper authority shall, also, specify in the call for bids for the contract and in the contract itself the general prevailing rate of the regular, holiday, and overtime wages paid and the payments on behalf of employees only, to the welfare, pension, vacation, apprentice training, and education funds existing in the locality for each craft, mechanic, teamster, laborer, or type of worker needed to execute the contract or work.

### **37-13-7. Specification in contract of amount and frequency of payment of wages.**

Every call for bids for every contract in excess of one thousand dollars (\$ 1,000), to which the state of Rhode Island or any political subdivision thereof or any public agency or quasi-public agency is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the state of Rhode Island or any political subdivision thereof, or any public agency or quasi-public agency and which requires or involves the employment of employees, shall contain a provision stating the minimum wages to be paid various types of employees which shall be based upon the wages that will be determined by the director of labor and training to be prevailing for the corresponding types of employees employed on projects of a character similar to the contract work in the city, town, village, or other appropriate political subdivision of the state of Rhode Island in which the work is to be performed. Every contract shall contain a stipulation that the contractor or his or her subcontractor shall pay all the employees employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates not less than those stated in the call for bids, regardless of any contractual relationships which may be alleged to exist between the contractor or subcontractor and the employees, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of the accrued payments as may be considered necessary to pay to the employees employed by the contractor, or any subcontractor on the work, the difference between the rates of wages required by the contract to be paid the employees on the work and the rates of wages received by the employees and not refunded to the contractor, subcontractors, or their agents.

(b) The terms "wages" , "scale of wages" , "wage rates" , "minimum wages" , and "prevailing wages" shall include:

(1) The basic hourly rate of pay; and

(2) The amount of:

(A) The rate of contribution made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(B) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to employees pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the employees affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of the benefits ; provided, that the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the director of labor and training insofar as this chapter of this title and other acts incorporating this chapter of this title by reference are concerned may be discharged by the making of payments in cash, by the making of contributions of a type referred to in subsection ( b)(2), or by the assumption of an enforceable commitment to bear the costs of a plan or program of a type referred to in this subdivision, or any combination thereof, where the aggregate of any payments, contributions, and costs is not less than the rate of pay described in subsection (b)(1) plus the amount referred to in subsection (b)(2).

(c) The term "employees" , as used in this section, shall include employees of contractors or subcontractors performing jobs on various types of public works including mechanics, apprentices, teamsters, chauffeurs, and laborers engaged in the transportation of gravel or fill to the site of public works, the removal and/or delivery of gravel or fill or ready-mix concrete, sand, bituminous stone, or asphalt flowable fill from the site of public works, or the transportation or removal of gravel or fill from one location to another on the site of public works, and the employment of the employees shall be subject to the provisions of subsections (a) and (b) .

(d) The terms "public agency" and "quasi-public agency" shall include, but not be limited to, the Rhode Island industrial recreational building authority, the Rhode Island economic development corporation, the Rhode Island airport corporation, the Rhode Island industrial facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and mortgage finance corporation, the Rhode Island resource recovery corporation, the Rhode Island public transit authority, the Rhode Island student loan authority, the water resources board corporate, the Rhode Island health and education building corporation, the Rhode Island turnpike and bridge authority, the Narragansett Bay water quality management district commission, Rhode Island telecommunications authority, the

convention center authority, the board of governors for higher education, the board of regents for elementary and secondary education, the capital center commission, the housing resources commission, the Quonset Point-Davisville management corporation, the Rhode Island children's crusade for higher education, the Rhode Island depositors economic protection corporation, the Rhode Island lottery commission, the Rhode Island partnership for science and technology, the Rhode Island public building authority, and the Rhode Island underground storage tank board.

### **37-13-8. Investigation and determination of prevailing wages - Filing of schedule.**

The director of labor and training shall investigate and determine the prevailing wages and payments made to or on behalf of employees, as set forth in § 37-13-7, paid in the trade or occupation in the city, town, village, or other appropriate political subdivision of the state and keep a schedule on file in his or her office of the customary prevailing rate of wages and payments made to or on behalf of the employees which shall be open to public inspection. In making a determination, the director of labor may adopt and use such appropriate and applicable prevailing wage rate determinations as have been made by the secretary of labor of the United States of America in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. § 276a; provided, however, that each contractor awarded a public works contract after July 1, 2007 shall contact the department of labor and training on or before July first of each year, for the duration of such contract to ascertain the prevailing wage rate of wages on a hourly basis and the amount of payment or contributions paid or payable on behalf of each mechanic, laborer or worker employed upon the work contracted to be done each year and shall make any necessary adjustments to such prevailing rate of wages and such payment or contributions paid or payable on behalf of each such employee every July first.

### **37-13-9. Statutory provisions included in contracts.**

A copy of 37-13-5, 37-13-6, and 37-13-7 shall be inserted in all contracts for public works awarded by the state or any city or town, committee, an authorized agency or awarding authority thereof, or any person or persons in their behalf in which state or municipal funds are used if the contract price be in excess of one thousand dollars (\$1,000).

### **37-13-10. Overtime compensation.**

Labor performed under the provisions of 37-13-1 - 37-13-16, inclusive, during the period of forty (40) hours in any one week and during the period of eight (8) hours in any one day, shall be considered a legal week's work or a legal day's work, as the case may be, and any number of hours of employment in any one week greater than the number of forty (40) hours or in any one day greater than the number of eight (8) hours shall be compensated at the prevailing rate of wages for overtime employment; provided, however, when the director of labor and training has determined in the investigation provided for in 37-13-7 and 37-13-8 that there is a prevailing practice in a city, town, or other appropriate political subdivision to pay an overtime rate of wages for work of any craft, mechanic, teamster, laborer, or type of worker needed to execute the work other than hours worked in any one week greater than the number of forty (40) or in hours worked in any one day greater than the number of eight (8), then the prevailing practice shall determine the legal workday and the legal workweek in the city or town for the work and the prevailing rate of overtime wages shall be paid for such work in excess of that legal workday or week, as the case may be.

### **37-13-11. Posting of prevailing wage rates.**

Each contractor awarded a contract for public works with a contract price in excess of one thousand dollars (\$1,000), and each subcontractor who performs work on those public works, shall post in conspicuous places on the project, where covered workers are employed, posters which contain the current, prevailing rate of wages and the current, prevailing rate of payments to the funds required to be paid for each craft or type of worker employed to execute the contract as set forth in §§ 37-13-6 and 37-13-7, and the rights and remedies of any employee described in § 37-13-17 for nonpayment of any wages earned pursuant to this chapter. Posters shall be furnished to contractors and subcontractors by the director of labor and training, who shall determine the size and context thereof from time to time, at the time a contract is awarded. A contractor or subcontractor who fails to comply with the provisions of this section shall be deemed guilty of a misdemeanor and shall pay to the director of labor and training one hundred dollars (\$100) for each calendar day of noncompliance as determined by him or her. Contracts set forth in this section shall not be awarded by the state, any city, town, or any agency thereof until the director of labor and training has prepared and delivered the posters to the division of purchases, if the state or any agency thereof is the proper authority, or to the city, town, or an agency thereof, if it is the proper authority, and the contractor to whom the contract is to be awarded.



### **37-13-12. Wage records of contractors.**

Each contractor awarded a contract with a contract price in excess of one thousand dollars (\$1,000) for public works, and each subcontractor who performs work on those public works, shall keep an accurate record showing the name, occupation, and actual wages paid to each worker employed by him or her and the payments to all the employee funds specified in sections 37-13-6 and 37-13-7 by him or her in connection with the contract or work. The director and his or her authorized representatives shall have the right to enter any place of employment at all reasonable hours for the purpose of inspecting the wage records and seeing that all provisions of this chapter are complied with.

### **37-13-12.1. Obstruction of enforcement.**

Any effort of any employer to obstruct the director and his or her authorized representatives in the performance of their duties shall be deemed a violation of this chapter and punishable as such.

### **37-13-12.2. Subpoena powers.**

The director and his or her authorized representatives shall have power to administer oaths and examine witnesses under oath, issue subpoenas, subpoenas duces tecum, compel the attendance of witnesses, and the production of papers, books, accounts, records, payrolls, documents, and testimony, and to take depositions and affidavits in any proceeding before the director.

### **37-13-12.3. Compelling obedience to subpoenas.**

In case of failure of any person to comply with any subpoena lawfully issued, or subpoena duces tecum, or on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the superior court, or any judge thereof, on application by the director, to compel obedience by proceedings in the nature of those for contempt.

### **37-13-12.4. Penalty for violations.**

Except as otherwise provided in this chapter, any employer who shall violate or fail to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each separate offense, or by imprisonment of up to one year, or by both fine and imprisonment. Each day of failure to pay wages due an employee at the time specified in this chapter shall constitute a separate and distinct violation.

### **37-13-13. Furnishing payroll record to director of labor.**

(a) Every contractor and subcontractor awarded a contract for public works as defined by this chapter shall furnish a certified copy of his or her payroll records of his or her employees employed on the project to the awarding authority on a monthly basis for all work completed in the preceding month on a uniform form prescribed by the director of labor and training. Notwithstanding the foregoing, certified payrolls for department of transportation public works may be submitted on the federal payroll form, provided that, when a complaint is being investigated, the director or his or her designee may require that a contractor resubmit the certified payroll on the uniform department form.

(b) Awarding authorities, contractors and subcontractors shall provide any and all payroll records to the director of labor and training within ten (10) days of their request by the director or his or her designee.

(c) In addition, every contractor and subcontractor shall maintain on the site where public works are being constructed and the general or primary contract is one million dollars (\$1,000,000) or more, a daily log of employees employed each day on the public works project. The log shall include, at a minimum, for each employee his or her name, primary job title, and employer and shall be kept on a uniform form prescribed by the director of labor and training. Such log shall be available for inspection on the site at all times by the awarding authority and/or the director of the department of labor and training and his or her designee. This subsection shall not apply to road, highway, or bridge public works projects.

(d) The director of labor and training may promulgate reasonable rules and regulations to enforce the provisions of this section.

(e) The awarding authority of any public works project shall withhold the next scheduled payment to any contractor or subcontractor who fails to comply with the provisions of subsections (a) or (b) above and shall also

notify the director of labor and training. The awarding authority shall withhold any further payments until such time as the contractor or subcontractor has fully complied. If it is a subcontractor who has failed to comply, the amount withheld shall be proportionate to the amount attributed or due to the offending subcontractor as determined by the awarding authority. The department may also impose a penalty of up to five hundred dollars (\$500) for each calendar day of noncompliance with this section, as determined by the director of labor and training. Mere errors and/or omissions in the daily logs maintained under subsection (c) shall not be grounds for imposing a penalty under this subsection.

### **37-13-13.1. Audits of wage records of out of state contractors and subcontractors.**

Out of state contractors or subcontractors who perform work on public works in this state authorize the director of labor and training to conduct wage and hour audits of their payroll records pursuant to the provisions of chapter 14 of title 28.

### **37-13-14. Contractor's bond.**

The state or any city, town, agency, or committee therein awarding contracts for public works shall require the contractor awarded a contract with a contract price in excess of fifty thousand dollars (\$ 50,000) for public works to file with the proper authority good and sufficient bond with surety furnished by any surety company authorized to do business in the state, conditioned upon the faithful performance of the contract and upon the payment for labor performed and material furnished in connection therewith, a bond to contain the terms and conditions set forth in chapter 12 of this title, and to be subject to the provisions of that chapter. Waiver of the bonding requirements of this section is expressly prohibited.

### **37-13-14.1. Enforcement - Hearing**

(a) Before issuing an order or determination, the director of labor and training shall order a hearing thereon at a time and place to be specified, and shall give notice thereof, together with a copy of the complaint or the purpose thereof, or a statement of the facts disclosed upon investigation, which notice shall be served personally or by mail on any person, firm, or corporation affected thereby. The person, firm, or corporation shall have an opportunity to be heard in respect to the matters complained of at the time and place specified in the notice, which time shall be not less than five (5) days from the service of the notice personally or by mail. The hearing shall be held within ten (10) days from the order of hearing. The hearing shall be conducted by the director of labor and training or his or her designee. The hearing officer in the hearing shall be deemed to be acting in a judicial capacity and shall have the right to issue subpoenas, administer oaths, and examine witnesses. The enforcement of a subpoena issued under this section shall be regulated by Rhode Island civil practice law and rules. The hearing shall be expeditiously conducted, and upon such hearing, the hearing officer shall determine the issues raised thereon and shall make a determination and enter an order within ten (10) days of the close of the hearing, and forthwith serve a copy of the order, with a notice of the filing thereof, upon the parties to the proceeding, personally or by mail. The order shall dismiss the charges or direct payment of wages or supplements found to be due, including interest at the rate of twelve percent (12%) per annum from the date of the underpayment to the date of payment, and may direct payment of reasonable attorney's fees and costs to the complaining party.

(b) In addition to directing payment of wages or supplements including interest found to be due, the order shall also require payment of a further sum as a civil penalty in an amount up to three times the total amount found to be due. Further, if the amount of salary owed to an employee pursuant to this chapter but not paid to the employee in violation of thereof exceeds five thousand dollars (\$5,000), it shall constitute a misdemeanor and shall be referred to the office of the attorney general. The misdemeanor shall be punishable for a period of not more than one year in prison and/or fined not more than one thousand dollars (\$1,000). In assessing the amount of the penalty, due consideration shall be given to the size of the employer's business, the good faith of the employer, the gravity of the violation, the history of previous violations, and the failure to comply with recordkeeping or other nonwage requirements. The surety of the person, firm, or corporation found to be in violation of the provisions of this chapter shall be bound to pay any penalties assessed on such person, firm, or corporation. The penalty shall be paid to the department of labor and training for deposit in the state treasury; provided, however, it is hereby provided that the general treasurer shall establish a dedicated "prevailing wages enforcement fund" for the purpose of depositing the penalties paid as provided herein. There is hereby appropriated to the annual budget of the department of labor and training the amount of the fund collected annually under this section, to be used at the direction of the director of labor and training for the sole purpose of enforcing prevailing wage rates as provided in this chapter.

(c) For the purposes of this chapter, each day or part thereof of violation of any provision of this chapter by a person, firm, or corporation, whether the violation is continuous or intermittent, shall constitute a separate and succeeding violation.

(d) In addition to the above, any person, firm, or corporation found in violation of any of the provisions of this chapter by the director of labor and training, an awarding authority, or the hearing officer, shall be ineligible to bid on, or be awarded work by, an awarding authority or perform any such work for a period of no less than eighteen (18) months and no more than thirty-six (36) months from the date of the order entered by the hearing officer. Once a person, firm, or corporation is found to be in violation of this chapter, all pending bids with any awarding authority shall be revoked, and any bid awarded by an awarding authority prior to the commencement of the work shall also be revoked.

(e) In addition to the above, any person, firm, or corporation found to have committed two (2) or more willful violations in any period of eighteen (18) months of any of the provisions of this chapter by the hearing officer, which violations are not arising from the same incident, shall be ineligible to bid on, or be awarded work by, an awarding authority or perform any work for a period of sixty (60) months from the date of the second violation.

(f) The order of the hearing officer shall remain in full force and effect unless stayed by order of the superior court.

(g) The director of labor and training, awarding authority, or hearing officer shall notify the bonding company of any person, firm, or corporation suspected of violating any section of this chapter. The notice shall be mailed certified mail and shall enumerate the alleged violations being investigated.

(h) In addition to the above, any person, firm, or corporation found to have willfully made a false or fraudulent representation on certified payroll records shall be referred to the office of the attorney general. A first violation of this section shall be considered a misdemeanor and shall be punishable for a period of not more than one year in prison and/or fined one thousand dollars (\$1,000). A second or subsequent violation of this section shall be considered a felony and shall be punishable for a period of not more than three (3) years imprisonment, a fine of three thousand dollars (\$3,000), or both. Further, any person, firm, or corporation found to have willfully made a false or fraudulent representation on certified payroll records shall be required to pay a civil penalty to the department of labor and training in an amount of no less than two thousand dollars (\$2,000) and not greater than fifteen thousand dollars (\$15,000) per representation.

### **37-13-15. Review.**

(a) There is hereby created an appeals board which shall be comprised of three (3) members who shall be appointed by the governor; provided, however, that each member of the appeals board shall have at least five (5) years experience with prevailing wage rates as they apply to the construction industry. The members of such appeals board shall serve without compensation. The members of the appeals board shall be appointed for terms of three (3) years except that of the three (3) members originally appointed by each of the appointing authorities; one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years and one (1) for a term of three (3) years.

(b) Any person aggrieved by any action taken by the director of labor and training or his or her designated hearing officer under the authority of this chapter, or by the failure or refusal of the director of labor and training to take any action authorized by this chapter, may obtain a review thereof for the purpose of obtaining relief from the action or lack of action by filing a petition for administrative review and relief, to the appeals board as provided herein. The petition for administrative review shall be filed within twenty (20) days of the action taken by the director of labor and training or designated hearing officer: The petition for administrative review shall be heard within ten (10) days of the date of filing. An aggrieved person under this section shall include:

- (1) Any person who is required to pay wages to his or her employees or make payments to a fund on behalf of his or her employees, as provided in this chapter;
- (2) Any person who is required to be paid wages for his or her labor or on whose behalf payments are required to be paid to funds, as provided by this chapter;
- (3) The lawful collective bargaining representative of a person defined in subdivision (2) above;
- (4) A trade association of which a person defined in subdivision (1) above is a member;
- (5) A proper authority as defined in this chapter;

- (6) A contractor who submitted a bid for work to be or which has been awarded under the provisions of this chapter or a trade association of which he or her is a member, and
  - (7) A labor organization which has one or more written collective bargaining agreements with one or more employers or a trade association which sets forth the hours, wages, and working conditions of a craft, mechanic, teamster, or type of worker needed to execute the work, as provided in this chapter to the extent that it would be affected by the action or the failure to act of the director of labor and training or the hearing officer.
- (c) Any aggrieved person as defined herein may obtain a review of a decision of the appeals board by filing a petition in the superior court in Providence county pursuant to the provisions of the administrative procedures act, praying for review and relief and the petition shall follow the course of and be subject to the procedures for causes filed in the court.
- (d) The director is hereby empowered to enforce his or her decision and/or the decision of the appeals board in the superior court for the county of Providence.

### **37-13-16. Termination of work on failure to pay agreed wages - Completion of work.**

Every contract within the scope of this chapter shall contain the further provision that in the event it is found by the director of labor and training that any employee employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the awarding party may, by written notice to the contractor or subcontractor, terminate his or her right as the case may be, to proceed with the work, or such part of the work as to which there has been a failure to pay the required wages, and shall prosecute the work to completion by contract or otherwise, and the contractor and his or her sureties shall be liable to the awarding party for any excess costs occasioned the awarding authority thereby.

### **37-13-17. Private right of action to collect wages or benefits**

(a) An employee or former employee, or any organization representing such an employee or former employee, of a contractor or subcontractor may bring a civil action for a violation of § 37-13-7 for appropriate injunctive relief, or actual damages, or both within three (3) years after the occurrence of the alleged violation. An action commenced pursuant to this section, may be brought in the superior court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom in the civil complaint is filed resides or has their principal place of business. Any contractor or subcontractor who violates the provisions of § 37-13-7 shall be liable to the affected employee or employees in the amount of unpaid wages or benefits, plus interest. A civil action filed in court under this section may be instituted instead of, but not in addition to the director of labor and training enforcement procedures authorized by § 37-13-14.1, provided the civil action is filed prior to the date the director of labor and training issues notice of an administrative hearing.

(b) An employer's responsibility and liability is solely for its own employees.

(c) An action instituted pursuant to this section may be brought by one or more employees or former employees on behalf of himself/herself or themselves and other employees similarly situated, except that no employee shall be a party plaintiff to any such action unless he/she gives his/her consent in writing to become such a party and such consent is filed in the court in which such action is brought.

(d) In an action filed under this section in which the plaintiff prevails, the court shall, in addition to any judgment awarded to the plaintiff, require reasonable attorneys' fees and the costs of the action to be paid by the defendant.

(e) The court in an action filed under this section shall award affected employees or former employees liquidated damages in an amount equal to two (2) times the amount of unpaid wages or benefits owed. Unpaid fringe benefit contributions owed pursuant to this section in any form shall be paid to the appropriate benefit fund, however, in the absence of an appropriate fund the benefit shall be paid directly to the individual.

(f) The filing of a civil action under this section shall not preclude the director of labor and training from referring a matter to the attorney general as provided in § 37-13-14.1(b), from prohibiting a contractor or subcontractor from bidding on or otherwise participating in contracts as provided in § 37-13-14.1(d), (e) and (h), or from prohibiting termination of work on failure to pay agreed wages pursuant to § 37-13-16.

(g) Any person, firm, or corporation found to have willfully made a false or fraudulent representation in connection with wage obligations owed on a contract shall be required to pay a civil penalty to the department of labor and training in an amount of no less than one thousand dollars (\$ 1,000) and not greater than three thousand dollars (\$ 3,000) per representation. Such penalties shall be recoverable in civil actions filed pursuant to this section. For purposes of this subsection "willfully" shall mean representations that are known to be false, or representations made with deliberate ignorance or reckless disregard for their truth or falsity.

(h) An employer shall not discharge, threaten, or otherwise discriminate against an employee, or former employee, regarding compensation terms, conditions, locations or privileges of employment because the employee or former employee, or a person or organization acting on his or her behalf: (1) Reports or makes a complaint under this section; or otherwise asserts his or her rights under this section; and/or (2) Participates in any investigation, hearing or inquiry held by the director of labor and training under § 37-13-14.1. In the event a contractor or subcontractor retaliates or discriminates against an employee in violation of this section, the affected employee may file an action in any court of competent jurisdiction and the court shall order reinstatement and/or restitution of the affected employee, as appropriate, with back pay to the date of the violation, and an additional amount in liquidated damages equal to two (2) times the amount of back pay and reasonable attorneys' fees and costs.

(i) If any one or more subsections of this section shall for any reason be adjudged unconstitutional or otherwise invalid, the judgment shall not affect, impair, or invalidate the remaining subsections.

## **PREVAILING WAGE RATES**

**(THE PREVAILING WAGE RATES THAT ARE IN  
EFFECT AT THE TIME THAT THE PROJECT GOES  
OUT TO BID MUST BE INCLUDED IN THE BID  
SPECIFICATIONS)**

**Find current prevailing wage rates using the Department of  
Labor and Training website:**

**<https://dlt.ri.gov/regulation-and-safety/prevailing-wage>**

# TITLE 37

## CHAPTER 14.1 MINORITY BUSINESS ENTERPRISE

### Sections

37-14.1-1.	Purpose.
37-14.1-2.	Applicability.
37-14.1-3.	Definitions.
37-14.1-4.	Policy.
37-14.1-5.	Discrimination prohibited.
37-14.1-6.	Minority business enterprise guidelines.
37-14.1-7.	Establishment of criteria and guidelines.
37-14.1-8.	Sanctions.

### **37-14.1-1. Purpose.**

The purpose of this chapter is to carry out the state's policy of supporting the fullest possible participation of firms owned and controlled by minorities and women (MBE's), in state funded and state directed public construction programs and projects and in state purchases of goods and services. This includes assisting MBE's throughout the life of contracts in which they participate.

### **37-14.1-2. Applicability.**

This chapter shall apply to any and all state purchasing, including, but not limited to the procurement of goods, services, construction projects, or contracts funded in whole or in part by state funds, or funds which, in accordance with a federal grant or otherwise, the state expends or administers or in which the state is a signatory to the construction contract.

### **37-14.1-3. Definitions.**

- (a) "Affirmative action" means taking specific steps to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future, and to involve minority business enterprises fully in contracts and programs funded by the state.
- (b) "Compliance" means the condition existing when a contractor has met and implemented the requirements of this chapter.
- (c) "Contract" means a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of this chapter, a lease is a contract.
- (d) "Contractor" means one who participates, through a contract or subcontract, in any procurement or program covered by this chapter, and includes lessees and material suppliers.
- (e) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:
  - (1) Black (a person having origins in any of the black racial groups of Africa);
  - (2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
  - (3) Portuguese (a person of Portuguese, Brazilian, or other Portuguese culture or origin, regardless of race);
  - (4) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);
  - (5) American Indian and Alaskan Native (a person having origins in any of the original peoples of North America.); or
  - (6) Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under section 8(a) of the Small Business Act, as amended [15 U.S.C. 637(a)].
- (f) "Minority business enterprise" or "MBE" means a small business concern, as defined pursuant to section 3 of the federal Small Business Act [15 U.S.C. 632] and implementing regulations, which is owned and controlled by one or more minorities or women. For the purposes of this chapter, owned and controlled means a business.

- (1) Which is at least fifty-one percent (51%) owned by one or more minorities or women or, in the case of a publicly owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more minorities or women; and
- (2) Whose management and daily business operations are controlled by one or more such individuals.

(g) "MBE coordinator" means the official designated to have overall responsibility for promotion of minority business enterprise in his or her departmental element.

(h) "Noncompliance" means the condition existing when a recipient or contractor has failed to implement the requirements of this chapter.

#### **37-14.1-4. Policy.**

It is the policy of the state of Rhode Island that minority business enterprises (MBE's) shall have the maximum opportunity to participate in the performance of procurements and projects outlined in 37-14.1-2.

#### **37-14.1-5. Discrimination prohibited.**

No person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of any project covered by this chapter, on the grounds of race, color, national origin, or sex.

#### **37-14.1-6. Minority business enterprise participation.**

Minority business enterprises shall be included in all procurements and construction projects under this chapter and shall be awarded a minimum of ten percent (10%) of the dollar value of the entire procurement or project. The director of the department of administration is further authorized to establish by rules and regulation formulas for giving minority business enterprises a preference in contract and subcontract awards.

#### **37-14.1-7. Establishment of criteria and guidelines.**

The director of the department of administration shall establish, by rule and regulations adopted in accordance with chapter 35 of title 42, standards which shall determine whether a construction project is covered by this chapter, compliance formulas, procedures for implementation, and procedures for enforcement which are not inconsistent with 49 CFR 23 of the federal regulations. As to Rhode Island department of transportation contracts, the director of administration may delegate this authority to the director of transportation.

#### **37-14.1-8. Sanctions.**

(a) The director of the department of administration shall have the power to impose sanctions upon contractors not in compliance with this chapter and shall include but not be limited to:

- (1) Suspension of payments;
- (2) Termination of the contract;
- (3) Recovery by the state of ten percent (10%) of the contract award price as liquidated damages; and
- (4) Denial of right to participate in future projects for up to three (3) years.

(b) As to Rhode Island department of transportation contracts, the director of the department of administration may delegate this authority to the director of transportation.



**RHODE ISLAND REQUIREMENTS FOR PARTICIPATION BY MINORITY BUSINESS ENTERPRISES**  
**IN STATE FUNDED AND DIRECTED PUBLIC CONSTRUCTION PROJECTS, CONSTRUCTION**  
**CONTRACTS AND PROCUREMENT CONTRACTS**

In accordance with RI Gen. Law § 37-14.1-1, it is the policy of the State of Rhode Island to support the fullest possible participation of firms owned and controlled by minorities (MBEs) and women (WBEs). Pursuant to §§ 37-14.1-2 and 37-14.1-6, MBEs and WBEs shall be included in all state purchasing, including, but not limited to, the procurement of goods, services, construction projects, or contracts funded in whole or in part with state funds, or funds which, in accordance with a federal grant or otherwise, the state expends or administers. MBEs and WBEs shall be awarded a minimum of ten percent (10%) of the dollar value of the entire procurement or project. MBE participation credit shall only be granted for firms duly certified as MBEs or WBEs by the State of Rhode Island, Department of Administration, Office of Diversity, Equity and Opportunity, MBE Compliance Office (MBECO). The current directory of firms certified as MBEs or WBEs may be accessed at <http://odeo.ri.gov/offices/mbeco/mbe-wbe.php> or by contacting Kate Constance Brody, Esq. Administrator at the MBECO at (401) 574-8670 or via email at [Kate.Brody@doa.ri.gov](mailto:Kate.Brody@doa.ri.gov).

# TITLE 37

## CHAPTER 16 PUBLIC WORKS ARBITRATION

### Sections

37-16-1.	Short Title.
37-16-2.	Contract provisions for arbitration.
37-16-3.	Application for subcontracts.
37-16-4.	Stay of legal proceedings pending arbitration.
37-16-5.	Jurisdiction of superior court to enforce arbitration provisions and awards.
37-16-6.	Trial upon evidence of substantial issue.
37-16-7.	Method of appointing arbitrators.
37-16-8.	Scheduling and notice of arbitration hearing – Adjournment.
37-16-9.	Power of court to direct prompt hearing.
37-16-10.	Arbitrator's oath – Waiver.
37-16-11.	Powers of arbitrators.
37-16-12.	Fees.
37-16-13.	Validity of awards.
37-16-14.	Arbitration under chapter deemed special proceeding – Jurisdiction of superior court.
37-16-15.	Procedure for hearing of application to court.
37-16-16.	Form of award.
37-16-17.	Court order confirming award.
37-16-18.	Court order vacating award.
37-16-19.	Rehearing after vacation of award.
37-16-20.	Court order modifying or correcting award.
37-16-21.	Notice of motion to vacate, modify, or correct an award.
37-16-22.	Entry of judgment – Costs
37-16-23.	Filing of papers after judgment.
37-16-24.	Effect of judgment.
37-16-25.	Appeals.
37-16-26.	Satisfaction of award.
37-16-27.	Application of sureties.

### **37-16-1. Short title.**

This chapter shall be known as the "Public Works Arbitration Act".

### **37-16-2. Contract provision for arbitration.**

(a) A provision in a written contract executed on or after January 1, 1962, for the construction, alteration, repair, or painting of any public building, sewer, highway, bridge, water treatment or disposal projects one party to which is the state, a city, a town, or an authority, a board, a public corporation, or any similar body created by statute or ordinance or any committee, agency, or subdivision of any of them, to settle by arbitration any dispute or claim arising out of or concerning the performance or interpretation of the contract shall be valid, irrevocable, and enforceable, save upon grounds existing in law or equity for the revocation of the contract.

(b) (1) Every contract for the construction, alteration, repair, painting, or demolition of any public building, sewer, water treatment or disposal project, highway, or bridge one party to which is the state, a city, a town, or an authority, a board, a public corporation, or any similar body created by statute or ordinance or any committee, agency, or subdivision of any of them which has a contract price of ten thousand dollars (\$ 10,000) or more and which is executed on or after July 1, 1967, shall contain a provision for arbitration of disputes and claims arising out of or concerning the performance or interpretation of the contract as follows:

(2) "All claims, disputes, and other matters in question arising out of or relating to this contract or the performance or interpretation thereof shall be submitted to arbitration. Arbitration shall be commenced by a demand in writing made by one party to the contract upon the other within a reasonable time after the dispute, claim, or other matter in question arose but in no event after payment in full of the contract price has been made and accepted. The written demand shall contain a statement of the question to be arbitrated and a detailed statement of each item or matter in

dispute and the name of the arbitrator appointed by that party. The other party to the contract within ten (10) days of the receipt of the written demand shall appoint an arbitrator and give notice in writing thereof to the party who commenced arbitration. The two (2) arbitrators appointed by the parties shall within ten (10) days of the date of the appointment of the second arbitrator select a third arbitrator who shall be designated as chairperson and who immediately shall give written notice to the parties of his or her appointment. The third arbitrator shall select a time, date, and place for hearing and give each party five (5) days notice in writing thereof. The date for hearing shall not be more than fifteen (15) days after the date of appointment of the third arbitrator. The award shall be made promptly by the arbitrators and, unless otherwise agreed by the parties or specified by law, no later than thirty (30) days from the date of closing the hearing, or, if oral hearings have been waived, from the date of the transmittal of the final statements and proofs to the arbitrators. The award shall be in writing and shall be signed by a majority of the arbitrators. It shall be executed in the manner required by law. The arbitrator shall provide a written explanation of the reasoning for the award. In the event the party of whom arbitration is demanded shall fail to appoint his or her arbitrator within the time specified or the two (2) arbitrators appointed by the parties are unable to agree on an appointment of the third arbitrator within the time specified, either party may petition the presiding justice of the superior court to appoint a single arbitrator who shall hear the parties and make an award as provided herein. The petitioner shall give five (5) days notice in writing to the other party before filing his or her petition."

(c) Any dispute involving claims less than one hundred thousand dollars (\$ 100,000) and associated with construction of a highway or bridge as referred to in subsection (b) shall be submitted to arbitration. Any dispute involving claims of one hundred thousand dollars (\$ 100,000) or more and associated with construction of a highway or bridge as referred to in subsection (b) shall only be arbitrated with the consent of the parties. If the parties fail to consent to arbitration and the state of Rhode Island is a party to the dispute, then the claim will proceed in accordance with § 37-13.1-1.

(d) For the purposes of this section, the term "claims" shall not mean the aggregate amount sought under the contract or in the arbitration, but shall refer specifically to each item or matter in dispute for which additional compensation is sought or for each item for which a credit is sought.

(e) Notwithstanding subsection (a) or (b) of this section, if any contract except for highway and bridge contracts provides for an arbitration procedure, and a method of appointment of an arbitrator or arbitrators, that method shall be followed instead of the method provided in subsection (b) of this section.

(f) This section shall apply to all written contracts executed on or after January 1, 1986.

### **37-16-3. Application to subcontracts.**

When a contract described in 37-16-2 is in effect and any party thereto has entered into a subcontract to perform part of the work and/or furnish any materials in connection with the work described in the contract and the terms of the subcontract provide for arbitration of a dispute or claim concerning the performance or interpretation thereof, or the subcontract, expressly or by reference to the terms of the contract, provides that the parties to the subcontract shall comply with the arbitration provisions of the contract, the following shall apply when a request is made or an order of court is entered for arbitration either under the terms of the contract or subcontract.

(a) When arbitration under the contract may adversely affect the interest of a party thereto because of the effect of an award of the arbitrator or arbitrators upon the performance or interpretation of the terms of a subcontract to which he or she is also a party, he or she may require any other party or all other parties to the subcontract to become a party or parties to the arbitration.

(b) When a party to a subcontract makes a demand or an order of court is entered for arbitration under the terms of the subcontract which comply with the provision of this chapter, any party thereto who is also a party to the contract and whose rights under the contract may be adversely affected by the effect of an award of the arbitrator or arbitrators upon the performance or interpretation of the contract, may require any other party to the contract to become a party to the arbitration.

(c) When a party to a contract or to a subcontract is made a party to arbitration by virtue of the provisions of this section, he or she shall have all the rights of a party to arbitration as provided in this chapter except the appointment of an arbitrator. Provided, however, he or she may object to the arbitrators appointed by the parties in which event a single arbitrator shall be appointed as provided in 37-16-2 in the petition of either of the original parties to arbitration. The award of the arbitrator or arbitrators shall be valid and shall be binding on him or her to

the extent that it affects the performance or interpretation of the contract and/or subcontract to which he or she is a party. The award of the arbitrator or arbitrators may be enforced, modified, or vacated as this chapter provides an award made in an arbitration of a contract described in 37-16-2 may be enforced, modified, or vacated.

#### **37-16-4. Stay of legal proceedings pending arbitration.**

If any suit or proceedings be brought upon any issue referable to arbitration under contract in writing providing for arbitration, the court in which the suit is pending upon being satisfied that the issue involved in the suit or proceedings is referable to arbitration under the contract, shall on application of one of the parties, stay the trial of the action until arbitration has been held.

#### **37-16-5. Jurisdiction of superior court to enforce arbitration provision and awards.**

The entering into a contract in writing providing for arbitration shall be deemed a consent of all parties, including those enumerated in 37-16-2, thereto to the jurisdiction of the superior court of this state to enforce the arbitration provision and any award made pursuant to that provision. A party aggrieved by the failure, neglect, or refusal of another to perform under a contract providing for arbitration, may petition the superior court, or a judge thereof, for an order directing that arbitration proceed in the manner provided for in the contract. Five (5) days' notice in writing of the application shall be served upon the part in default. Service thereof shall be made in the manner specified in the contract, and if no manner specified therein, then in the manner provided by law for personal service of a summons, within or without the state, or substituted service of a summons, or upon satisfactory proof that the party aggrieved has been or will be unable with due diligence to make service in any of the foregoing manners, then notice shall be served in such manner as the court or judge may direct. A judge of the superior court shall hear the parties and upon being satisfied that there is no substantial issue as to the making of the contract or the failure to comply therewith, the court, or the judge thereof, hearing the application, shall make an order directing the parties to proceed to arbitration in accordance with the terms of the contract.

#### **37-16-6. Trial upon evidence of substantial issue.**

If evidentiary facts are set forth raising a substantial issue as to the making of the contract or the failure to comply therewith, the court, or the judge thereof, shall proceed immediately to the trial of the issues. Whenever an immediate trial is ordered, the order therefor shall provide that, if the court finds that a written contract providing for arbitration was made, and that there was a failure to comply therewith, the parties shall proceed with the arbitration in accordance with the terms of the contract and the order shall provide that if the court finds that there was no contract or failure to comply with the contract, then the proceeding shall be dismissed.

#### **37-16-7. Method of appointing arbitrators or umpire.**

If in the contract providing for arbitration, provision is made for a method of naming or appointing an arbitrator or arbitrators or an umpire, that method shall be followed, but if no method be provided therein, then the parties to the contract shall agree to the method of naming or appointing an arbitrator or arbitrators or an umpire and if the parties shall fail to agree, then the court or the judge thereof upon application of either of the parties after due notice to the other party shall appoint an arbitrator to hear the dispute.

#### **37-16-8. Scheduling and notice of arbitration hearing - Adjournment.**

Subject to the terms of the contract, if any are specified therein, the arbitrators selected as prescribed in this chapter must appoint a time and place for the hearing of the matters submitted to them, and must cause notice thereof to be given to each of the parties. They, or a majority of them, may adjourn the hearing from time to time upon the application of either party for good cause shown or upon their own motion, but not beyond the day fixed if a date in the contract, if any, for rendering their award, unless the time so fixed is extended by the written consent of the parties to the contract or their attorney, or the parties have continued with the arbitration without objection to such adjournment.

#### **37-16-9. Power of court to direct prompt hearing.**

The court shall have power to direct the arbitrators to proceed promptly with the hearing and determination of the dispute, claim, or matter in question.

#### **37-16-10. Arbitrator's oath - Waiver.**

Before hearing any testimony, arbitrators selected as prescribed in this chapter must be sworn, by an officer authorized by law to administer an oath, faithfully and fairly to hear and examine the claim, dispute, or matter in question and to make a just award according to the best of their understanding, unless the oath is waived by the

written consent of the parties to the contract or their attorneys or the parties have continued with the arbitration without objection to the failure of the arbitrators to take the oath.

### **37-16-11. Powers of arbitrators.**

The arbitrator or arbitrators selected as prescribed in this chapter, may require any person to attend before them as a witness; and he or she and they have, and each of them has, the same powers with respect to all the proceedings before them which are conferred upon a board or a member of a board authorized by law to hear testimony. All the arbitrators selected as prescribed in this chapter must meet together and hear all the allegations and proofs of the parties; but an award by a majority of them is valid.

### **37-16-12. Fees.**

In any proceeding under this chapter, unless the parties agree as to the arbitrator's or arbitrators' fees, such fees shall be fixed by the court or the judges thereof who shall require the payment equally by both parties of the arbitrators' fees.

### **37-16-13. Validity of awards.**

An award shall be valid and enforceable according to its terms and under the provisions of this chapter, without previous adjudication of the existence of a contract to arbitrate, subject, nevertheless, to the provisions of this section:

- (a) A party who has participated in any of the proceedings before the arbitrator or arbitrators may object to the confirmation of the award only on one or more of the grounds hereinafter specified (provided that he did not continue with the arbitration with notice of the facts or defects upon which his objection is based) because of a failure to comply with 37-16-8 or with 37-16-10 or because of the improper manner of the selection of the arbitrators.
- (b) A party who has not participated in any of the proceedings had before the arbitrator or arbitrators and who has not made or been served with an application to compel arbitration under 37-16-5 may also put in issue the making of the contract or the failure to comply therewith, either by a motion for a stay of the arbitration or in opposition to the confirmation of the award. If a notice shall have been personally served upon such party of an intention to conduct the arbitration pursuant to the provisions of a contract specified in the notice, then the issues specified in this subdivision may be raised only by a motion for a stay of the arbitration, notice of which motion must be served within ten (10) days after the service of the notice of intention to arbitrate. The notice must state in substance that unless within ten (10) days after its service, the party served therewith shall serve a notice of motion to stay the arbitration, he or she shall thereafter be barred from putting in issue the making of the contract or the failure to comply therewith. The arbitration hearing shall be adjourned upon service of the notice pending the determination of the motion. Where the opposing party, either on a motion for a stay or in opposition to the confirmation of an award, sets forth evidentiary facts raising a substantial issue as to the making of the contract or the failure to comply therewith, an immediate trial of the same shall be had. In the event that the party is unsuccessful he or she may, nevertheless, participate in the arbitration if the same is still being carried on.

### **37-16-14. Arbitration under chapter deemed special proceeding - Jurisdiction of superior court.**

Arbitration of a claim, dispute, or matter in question under a contract described in this chapter shall be deemed a special proceeding, of which the superior court for Providence County shall have jurisdiction.

### **37-16-15. Procedure for hearing of application to court.**

Any application to the court, or a judge thereof, hereunder shall be made and heard in the manner provided by law for the making and hearing of motions, except as otherwise herein expressly provided.

### **37-16-16. Form of award.**

To entitle the award to be enforced, as prescribed in this chapter, it must be in writing; and, within the time limited in the contract, if any, subscribed by the arbitrator or arbitrators making it and either filed in the office of the clerk of the court having jurisdiction as provided in 37-16-14 or delivered to one of the parties or his or her attorney.

### **37-16-17. Court order confirming award.**

At any time within one year after the award is made, as prescribed in 37-16-16, any party to the contract by the terms of which arbitration was had, may apply to the court having jurisdiction as provided in 37-16-14 for an order confirming the award. Thereupon the court must grant the order unless the award is vacated, modified, or corrected, as prescribed in 37-16-18 and 37-16-19 or unless the award is unenforceable under the provisions of 37-16-13. Notice of the motion must be served upon the adverse party or parties or his or her or their attorneys, as prescribed by law for service of notice of a motion upon an attorney in an action in the same court.

### **37-16-18. Court order vacating award.**

In any of the following cases, the court must make an order vacating the award, upon the application of any party to the controversy which was arbitrated

- (a) When the award was procured by fraud.
- (b) Where the arbitrator or arbitrators exceeded their powers, or so imperfectly executed them, that a mutual, final, and definite award upon the subject matter submitted was not made.
- (c) If there was no valid contract, and the objection has been raised under the conditions set forth in 37-16-13.

### **37-16-19. Rehearing after vacation of award.**

Where an award is vacated, the court, in its discretion may direct a rehearing either before the same arbitrator or arbitrators or before a new arbitrator or arbitrators to be chosen in the manner provided in the contract for the selection of the original arbitrator or arbitrators or as provided for in 37-16-7 and any provision limiting the time in which the arbitrator or arbitrators may make a decision shall be deemed applicable to the new arbitration and to commence from the date of the court's order.

### **37-16-20. Court order modifying or correcting award.**

In any of the following cases, the court must make an order modifying or correcting the award, upon the application of any party to the contract by the terms of which the arbitration was held.

- (a) Where there was an evident miscalculation of figures or an evident mistake in the description of any persons, thing, or property referred to in the award.
- (b) Where the arbitrator or arbitrators have awarded upon a matter not submitted to them, not affecting the merits of the decision upon the matter submitted.
- (c) Where the award is imperfect in a matter of form not affecting the merits of the controversy, and, if it had been a master's report the defect could have been amended or disregarded by the court.

### **37-16-21. Notice of motion to vacate, modify, or correct an award.**

Notice of a motion to vacate, modify, or correct an award must be served upon all adverse parties, or their attorneys, within sixty (60) days after the award is filed or delivered, as prescribed by law for service of notice of a motion upon an attorney in an action; except that in opposition to a motion to confirm an award, any of the grounds specified in 37-16-18 may be set up. For the purpose of the motion, any judge who might make an order, to stay the proceedings in an action brought in the same court may make an order, to be served with the notice of motion, staying the proceedings of an adverse party or parties to enforce the award.

### **37-16-22. Entry of judgment - Costs.**

Upon the granting of an order confirming, modifying, or correcting an award, judgment may be entered in conformity therewith, except as is otherwise prescribed in this chapter. Costs of the application and of the proceedings subsequent thereto, not exceeding twenty-five dollars (\$25.00) and disbursements, may be awarded by the court in its discretion. If awarded, the amount thereof must be included in the judgment.

### **37-16-23. Filing of papers after judgment.**

(a) Immediately after entering judgment, the clerk must attach together and file the following papers:

- (1) The contract, and each written extension of the time, if any, within which to make the award.
- (2) The award.
- (3) Each notice, affidavit or other paper used upon an application to confirm, modify, or correct the award, and a copy of each order of the court upon the application.
- (4) A copy of the judgment.

(b) The judgment may be docketed as if it was rendered in an action.

### **37-16-24. Effect of judgment.**

The judgment so entered has the same force and effect, in all respects as, and is subject to all the provisions of law relating to a judgment in an action. The judgment may be enforced as if it had been rendered in an action in the court in which it is entered.

### **37-16-25. Appeals.**

An appeal may be taken from an order made in a proceeding under this chapter, or from a judgment entered upon an award. The proceedings upon the appeal, including the judgment thereupon and the enforcement of the judgment, are governed by the provisions of statute and rule regulating appeal in actions as far as they are applicable.

### **37-16-26. Satisfaction of award.**

- (a) An award which requires the payment of a sum of money by a city, town, or the state or any body described in 37-16-2 created or organized by or through the authority of any of them, shall be satisfied to the extent of payment of that sum by payment thereof to the party to whom the award was made by the treasurer or officer exercising the duties of a treasurer thereof from its general funds.
- (b) An award which requires the payment of a sum of money to a city, a town, or the state or any body described in 37-16-2 created or organized by or through the authority of any of them shall be satisfied to the extent of payment of that sum by payment thereof to its treasurer or officer exercising the duties of a treasurer thereof who shall deposit the same in its general funds.

### **37-16-27. Application to sureties.**

- (a) If a contractor principal on a bond furnished to guarantee performance or payment on a construction contract and the claimant are parties to a written contract with a provision to submit to arbitration any controversy thereafter arising under the contract, or subject to arbitration as provided in 37-16-2(b), the arbitration provisions shall apply to the surety for all disputes involving questions of the claimant's right of recovery against the surety. Either the claimant, the contractor principal, or surety may demand arbitration in accordance with the written contract or as provided in 37-16-2(b) if applicable in one arbitration proceeding, provided that the provisions of 37-16-3 shall be applicable to any such demand for arbitration. The arbitration award shall decide all controversies subject to arbitration between the claimant, on the one hand, and the contractor principal and surety on the other hand, including all questions involving liability of the contractor principal and surety on the bond, but a claimant must file suit for recovery against the surety within the time limits set forth in 37-12-2 and 37-12-5. The arbitration shall be in accordance with this chapter and the court shall enter judgment thereon as provided therein.
- (b) The arbitrator or arbitrators, if more than one, shall make findings of fact as to the compliance with the requirements for recovery against the surety, and those findings of fact shall be a part of the award binding on all parties to the arbitration.

# **TITLE 45**

## **CHAPTER 55 AWARD OF MUNICIPAL CONTRACTS**

### **SECTIONS**

- 45-55-1 Legislative findings
- 45-55-2. Method of source selection
- 45-55-3. Purchasing agent - Appointment - Duties.
- 45-55-4. Definitions.
- 45-55-5. Competitive sealed bidding.
- 45-55-5.1. Business exempt.
- 45-55-5.2. Town of North Smithfield - Exemption.
- 45-55-6. Competitive negotiation.
- 45-55-7. Negotiations after unsuccessful competitive sealed bidding
- 45-55-8. Sole source procurement and emergency procurements.
- 45-55-8.1 Qualification based selection of architects and engineers.
- 45-55-9. Small purchases.
- 45-55-10. Cancellation of invitation for bids and requests for proposals.
- 45-55-11. Responsibilities of bidders and offerors
- 45-55-12. Prequalification of contractors - General.
- 45-55-13. Exclusion of state mandated costs.
- 45-55-13.1. Exclusion of multi-cities or towns insurance corporations and cooperative risk management programs.
- 45-55-13.2. Exclusion of multi-cities or towns energy aggregation programs.
- 45-55-13.3. Exclusion of multi-school district combined purchasing consortia
- 45-55-14. Staff consultants.
- 45-55-15. Severability.
- 45-55-16 Prohibition against the use of lead based paints.
- 44-55-17 Penalties

#### **45-55-1. Legislative findings.**

It is hereby declared that a need exists to establish a uniform system for the award of contracts by municipalities, utilizing open cooperative bids.

#### **45-55-2. Method of source selection.**

Except as otherwise authorized by law, all municipal contracts shall be awarded by:

- (1) Competitive sealed bidding, pursuant to 45-55-5;
- (2) Competitive negotiations, pursuant to 45-55-6;
- (3) Non-competitive negotiations, pursuant to 45-55-7 and 45-55-8;
- (4) Small purchase procedures, pursuant to 45-55-9.
- (5) Qualification based selection (QBS) process for architects/engineers pursuant to 45-55-8.1

#### **45-55-3. Purchasing agent - Appointment - Duties.**

Within each city or town or quasi public agency there shall be designated a person or persons to act as purchasing officer to exercise the powers and duties as set forth in this chapter.



#### **45-55-4. Definitions.**

The words defined in this section have the following meanings whenever they appear in this chapter, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular section, group of sections or provision.

(1) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.

(2) "Change order" means a written order signed by the purchasing agent, or contractor directing or allowing the contractor to make changes which the changes clause of the contract authorizes the purchasing agent or contractor to order without the consent of the contractor or purchasing agent.

(3) "Construction" means the process of building, altering, repairing, improving, or demolishing any public structures or building, or other public improvements of any kind to any public real property. It does not include the routine maintenance or repair of existing structures, buildings, or real property performed by salaried employees of the municipality in the usual course of their job.

(4) "Contract" means all types of agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts, purchase orders, and construction management contracts. It also includes supplemental agreements with respect to any of the preceding. "Contract" does not include labor contracts with employees of the municipality.

(5) "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It includes bilateral actions, as supplemental agreements, and unilateral actions, as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.

(6) "Contractor" means any person having a contract with a municipality.

(8) "Data" means recorded information, regardless of form or characteristic.

(8) "Designee" means a duly authorized representative of a person holding a superior position.

(9) "Employee" means an individual drawing a salary from a municipality, whether elected or not, and any non-salaried individual performing personal services for any municipality.

(10) "May" means permissive.

(11) "Municipality" means the individual cities and towns of the state of Rhode Island.

(12) "Negotiation" means contracting by either of the methods described in §§ 45-55-6, 45-55-7, and 45-55-8.

(13) "Person" means any business, individual, organization, or group of individuals.

(14) "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(15) "Purchasing officer" means the person designated in each municipality or quasi public agency pursuant to section 45-55-3.

(16) "Regulations" means rules and regulations adopted by the individual cities or towns, concerning the implementation of the provisions of this chapter.

(17) "Services" means the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services. "Services" does not include labor contracts with employees of governmental agencies.

(18) "Shall" means imperative.

(19) "Supplemental agreement" means any contract modification which is accomplished by the mutual action of the parties.

(20) "Supplies" means all property, including, but not limited, to leases of real property, printing and insurance, except land or permanent interest in land.

#### **45-55-5. Competitive sealed bidding.**

(a) Contracts exceeding the amount provided by 45-55-9 shall be awarded by competitive bidding unless they are professional engineering/architectural services pursuant to 45-55-8.1 and it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is practicable shall include whether:

- (1) Specifications can be prepared that permit award on the basis of either the lowest qualified bid price or the lowest qualified evaluated bid price; and
  - (2) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.
- (b) The invitation for bids shall state whether award shall be made on the basis of the lowest bid price or the lowest evaluated or responsive bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be stated in the invitation for bids, if available.
- (c) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date stated in the 0020 notice for the opening of bids. Notice may include publication in a newspaper of general circulation in the state as determined by the purchasing officer for the municipality not less than seven (7) days nor more than twenty-one (21) days before the date set for opening of the bids. The purchasing officer may make a written determination that the twenty-one (21) day limitation needs to be waived. The written determination shall state the reason why the twenty-one (21) day limitation is being waived and shall state the number of days, giving a minimum and maximum, before the date set for the opening of bids when public notice is to be given.
- (4) Bids shall be opened publicly in full view of the public at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and an abstract made available for public inspection. Subsequent to the awarding of the bid, all documents pertinent to the awarding of the bid shall be made available and open to public inspection and retained in the bid file.
- (5) The contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price, or lowest evaluated or responsive bid price.
- (6) Correction or withdrawal of bids may be allowed only to the extent permitted by regulations issued by the purchasing officer.

#### **45-55-5.1. Business exempt.**

The North Kingstown Bus Contractors Association and the Scituate School Bus Owners Club shall be exempt from the provisions of this chapter.

#### **45-55-5.2. Town of North Smithfield - Exemption.**

The town of North Smithfield is exempt from the provisions of this chapter with regard to the contracting for fire and rescue services with the Primrose Volunteer Fire Department and/or North Smithfield Fire Department and/or their respective successors and assigns.

#### **45-55-6. Competitive negotiation.**

- (a) When, under regulations adopted by the city or town council, the purchasing agent determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in 45-55-8, 45-55-9, and 45-55-10 a contract may be awarded by competitive negotiation.
- (b) Adequate public notice of the request for proposals shall be given in the same manner as provided in 45-55-5(c).
- (c) Contracts may be competitively negotiated when it is determined, in writing, by the purchasing agent that the bid prices received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which:
  - (1) Each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate; and
  - (2) The negotiated price is lower than the lowest rejected bid by any competitive bidder; and
  - (3) The negotiated price is the lowest negotiated price offered by a competitive offeror.
- (d) The request for proposals shall indicate the relative importance of price and other evaluation factors.
- (e) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the municipality taking into consideration price and the evaluation factors set forth in the request for proposals.
- (f) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined, in writing, to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:
  - (1) With respect to prices, where such prices are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions; or
  - (2) Where time of delivery or performance will not permit discussions; or
  - (3) Where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable prices, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

#### **45-55-7. Negotiations after unsuccessful competitive sealed bidding.**

- (a) In the event that all bids submitted pursuant to competitive sealed bidding under 45-55-5 result in bid prices in excess of the funds available for the purchase, and the purchasing officer determines in writing:
  - (1) That there are no additional funds available from any source so as to permit an award to the lowest responsive and responsible bidder, and
  - (2) The best interest of the municipality will not permit the delay attendant to a re-solicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in 45-55-5, then a negotiated award may be made as stated in subsection (b) or (c) of this section.
- (b) Where there is more than one bidder, competitive negotiations pursuant to 45-55-6, shall be conducted with the three (3) (two (2) if there are only two (2)) bidders determined in writing, to be the lowest responsive and responsible bidders to the competitive sealed bid invitation. Competitive negotiations shall be conducted under the following restrictions:
  - (1) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in the discussions; or

- (2) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of the lowest bid price, or lowest evaluated bid price submitted by any responsive and responsible offeror.
- (c) When after competitive sealed bidding, it is determined in writing, that there is only one responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with 45-55-8.

#### **45-55-8. Sole source procurement and emergency procurements.**

- (a) A contract may be awarded for a supply, service, or construction item without competition when, under published regulations, the purchasing officer determines, in writing, that there is only one source for the required supply, service, or construction item.
- (b) Notwithstanding any other provision of this chapter, the purchasing agent may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions as defined in regulations or where the procurement will be in the best interest of the city as established by properly promulgated rules and regulations; provided, that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency, and for the selection of the particular contractor, shall be included in the contract file.

#### **45-55-8.1. Qualification based selection of architects and engineers.**

When the purchasing agent determines that the city or town needs the services of a professional architect or engineer, the purchasing agent shall follow the qualification based selection process for the procurement of architectural and engineering consulting services.

#### **45-55-9. Small purchases.**

Procurements, not to exceed an aggregate amount of ten thousand dollars (\$10,000) for construction and five thousand dollars (\$5,000) for all other purchases may be made in accordance with small purchase regulations promulgated by the municipality. These amounts shall be increased or decreased annually hereafter at the same rate as the Boston Regional Consumer Price Index. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. A municipality may further reduce the aggregate purchase amount, as provided for in this section by ordinance.

#### **45-55-10. Cancellation of invitation for bids and requests for proposals.**

An invitation for bids, a request for proposals, or other solicitation may be canceled, or all bids or proposals rejected, if it is determined, in writing, that such action if taken is not in the best interest of the municipality and approved by the chief purchasing officer.

#### **45-55-11. Responsibilities of bidders and offerors.**

- (1) A written determination of responsibility of a bidder or offeror shall be made and it shall be made in accordance with regulations issued by the municipality.

A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted. The failure of a bidder or offeror to promptly supply information in connection with a reasonable inquiry may be grounds for a determination of non-responsibility with respect to a bidder or offeror.

- (2) Except as otherwise provided, by law, information furnished by a bidder or offeror pursuant to this section may not be disclosed outside of the purchasing department administering the contract without prior written consent of the bidder or offeror.

#### **45-55-12. Prequalification of contractors - General.**

The municipality may provide for prequalification of suppliers as responsible prospective contractors for particular types of supplies, services, and construction. Municipalities which choose to provide for prequalification of suppliers shall adopt regulations for prequalification in the same manner provided for in the adoption of ordinances in the manner provided for in the legislative or home rule charter of the municipality. Solicitation mailing lists of

potential contractors of supplies, services, and construction shall include but need not be limited to prequalified contractors. Prequalification shall not foreclose a written determination:

- (1) Between the time of the bid opening or receipt of offers and the making of an award, that a prequalified supplier is not responsible; or
- (2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible.

#### **45-55-13. Exclusion of state mandated costs.**

The provisions of 45-13-7 through 45-13-10 do not apply to this section.

#### **45-55-13.1. Exclusion of multi-cities or towns insurance corporations and cooperative risk management programs.**

The provisions of this chapter shall not apply to entities organized pursuant to section 45-5-20.1. Those entities are exempt from all of the provisions of this chapter.

#### **45-55-13.2. Exclusion of multi-cities or towns energy aggregation programs.**

The provisions of this chapter do not apply to entities organized for the purpose of negotiating the purchase of electric power pursuant to § 39-3-1.1, or energy or energy related services. Those entities are exempt from all provisions of this chapter.

#### **45-55-13.3. Exclusion of multi-school district combined purchasing consortia.**

The provisions of this chapter do not apply to purchases and contracts entered into by those consortia established pursuant to § 16-2-9.2, and such entities shall be exempt from all provisions of this chapter.

#### **45-55-14. Staff consultants.**

The procurement of the service of an attorney, physician or dentist by a municipality, is exempt from the provisions of this chapter.

#### **45-55-15. Severability.**

If any one or more sections, clauses, sentences or parts of this chapter are for any reason be adjudged unconstitutional or otherwise invalid in any court, that judgment shall not affect, impair or invalidate the remaining provisions of this chapter but shall be confined in its operation to the specific provisions so held unconstitutional or invalid and the inapplicability or invalidity of any section, clause or provisions of this chapter in any one or more instances or circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

#### **45-55-16. Prohibition against the use of lead based paints.**

When purchasing paint products or contracting or subcontracting for painting, construction, improvement, completion, or repair of any public buildings, public road, public bridge, or public construction, all municipalities, as defined by 45-55-4(11), shall be prohibited from the use of lead based paint.

#### **45-55-17. Penalties.**

Any person who knowingly and intentionally violates any provision of this chapter shall be subject to a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500), or by imprisonment for not more than one year, or both.

**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Participation Form**

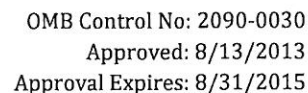
An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE<sup>1</sup> subcontractor<sup>2</sup> the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services , Equipment or Supplies	Amount Received by Prime Contractor

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



Please use the space below to report any concerns regarding the above EPA-funded project:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page.

<b>Subcontractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

## Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Performance Form

This form is intended to capture the DBE<sup>1</sup> subcontractor's<sup>2</sup> description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor
DBE Certified By: <input type="checkbox"/> DOT <input type="checkbox"/> SBA <input type="checkbox"/> Other: _____		Meets/ exceeds EPA certification standards? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Unknown

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Print Name
Title	Date

Subcontractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

## Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE<sup>1</sup> subcontractors<sup>2</sup> and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Prime Contractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Issuing/Funding Entity:			

I have identified potential DBE certified subcontractors	__ YES	__ NO	
If yes, please complete the table below. If no, please explain:			
Subcontractor Name/ Company Name	Company Address/ Phone/ Email	Est. Dollar Amt	Currently DBE Certified?

Continue on back if needed

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Utilization Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

<b>Prime Contractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

# Good Faith Efforts

## What is the Purpose of the Good Faith Efforts?

The Good Faith Efforts are methods employed by all EPA financial assistance agreement recipients to ensure that disadvantaged business enterprises (DBEs) have the opportunity to compete for procurements funded by EPA financial assistance funds.

## What Are the Good Faith Efforts?

- ❖ Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and local government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- ❖ Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- ❖ Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- ❖ Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- ❖ Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- ❖ If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

## What are the New Contract Administration Provisions?

When the DBE rule goes into effect, there are a number of new provisions designed to prevent unfair practices that adversely affect DBEs. Those provisions are as follows:

- ❖ A recipient must require its prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient.
- ❖ A recipient must be notified in writing by its prime contractor prior to any



termination of a DBE subcontractor for convenience by the prime contractor.

- ❖ If a DBE subcontractor fails to complete work under the subcontract for any reason, the recipient must require the prime contractor to employ the Six Good Faith Efforts if soliciting a replacement subcontractor.
- ❖ A recipient must require its prime contractor to employ the Six Good Faith Efforts even if the prime contractor has achieved its fair share objectives.

### **What are the New Forms Associated With the New Contract Administration Provisions?**

EPA Form 6100-2 - DBE Program Subcontractor Participation Form. This form gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and any other concerns the DBE subcontractor might have.

EPA Form 6100-3 - DBE Program Subcontractor Performance Form. This form captures an intended subcontractor's description of work to be performed for the prime contractor and the price of the work submitted to the prime.

EPA Form 6100-4 – DBE Program Subcontractor Utilization Form. This form captures the prime's intended use of an identified DBE subcontractor, and the estimated dollar amount of the subcontract.

<b>Form</b>	<b>Requirement</b>	<b>Provided By</b>	<b>Completed By</b>	<b>Submitted To</b>
EPA Form 6100-2	Recipients required to have prime contractors provide form to Subcontractors	Prime Contractors	DBE Subcontractors	EPA DBE Coordinator
EPA Form 6100-3	Recipients required to have prime contractors provide form to Subcontractors	Prime Contractors	DBE Subcontractors	Recipients as part of bid or proposal package
EPA Form 6100-4	Recipients required to have prime contractors complete the form	Recipients	Prime Contractors	Recipients as part of bid or proposal package



**State of Rhode Island**  
**Division of Equity, Diversity, and Inclusion (DEDI)**  
**Minority Business Enterprise Compliance Office**  
**Minority Business Enterprise Utilization Plan**

Company Name: \_\_\_\_\_

Representative's Name who administers MBE Program: \_\_\_\_\_

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

City, State, Zip: \_\_\_\_\_ Telephone: \_\_\_\_\_

Email: \_\_\_\_\_ Project Location: \_\_\_\_\_

Bid or Project #: \_\_\_\_\_ Date Bid Opened: \_\_\_\_\_

Description of Work: \_\_\_\_\_

Contract Value: \_\_\_\_\_ MBE % Assigned: \_\_\_\_\_

Total # of All Subcontractors/Suppliers used: \_\_\_\_\_ # of MBE Subcontractors/Suppliers used: \_\_\_\_\_

**List All Subcontractors/Suppliers/Consultants/Independent Contractors – Total Dollar Amounts – Scope of Work:**

<b>Subcontractor / Supplier</b>	<b>Dollar Award</b>	<b>Scope/Description of Work</b>	<b>RI Certified M/WBE Yes/No</b>

Please note that all MBE/WBE firms must be certified by the RI MBE Compliance Office, and that MBE/WBE firms must self-perform 100% of the work with their own forces or subcontract to another RI certified MBE/WBE in order to receive participation credit. Vendors may count 60% of expenditures for materials and supplies obtained from an MBE certified as a regular dealer/supplier, and 100% of such expenditures obtained from an MBE/WBE certified as a manufacturer. For firms certified as a broker, you may receive MBE participation credit only for the fees and commissions charged for the procurement of the good and materials, but not the cost of the materials themselves.

The above referenced contract will not be released until this plan has been approved by the Director of the Department of Administration or its designee.

For assistance and advice in identifying MBE/WBE firms, please call the Minority Business Enterprise Compliance Office at (401) 574-8253. The directory of all certified MBE firms is also located at [www.mbe.ri.gov](http://www.mbe.ri.gov).

Signature of Authorized Agent of Business: \_\_\_\_\_ Date: \_\_\_\_\_

**Send Completed Form to:**  
**Kate Constance Brody, Esq. Administrator – MBE Compliance Office**  
**Division of Equity, Diversity, and Inclusion (DEDI)**  
**Minority Business Enterprise Compliance Office**  
**One Capitol Hill, 3rd Floor**  
**Providence, RI 02908**  
**Phone: (401) 574-8670**  
**Kate.Brody@doa.ri.gov**

**Office of Diversity, Equity and Opportunity (ODEO)**  
**MBE Compliance Office**  
**1 Capitol Hill, 3<sup>rd</sup> Floor**  
**Providence, RI 02908**

**(401) 574-8670**  
[www.mbe.ri.gov](http://www.mbe.ri.gov)

Pursuant to RIGL 37-14.1 as well as the regulations promulgated thereto, the MBE Compliance Office requires that you complete the following table. Please note that these figures will be verified with the MBEs identified. If there are outstanding issues, such as retainage or a dispute, please indicate and attach supporting documentation for same. Also note that copies of invoice and cancelled checks for payment to all MBE subcontractors and suppliers are required.

**Contractor/Vendor Name:**

**Project Name & Location:**

**Original Prime Contract Amount: \$** \_\_\_\_\_ **Current Prime Contract Amount: \$** \_\_\_\_\_ **% Complete: \_\_\_\_\_**

<b>MBE/WBE Subcontractor</b>	<b>Original Contract Amount</b>	<b>Change Orders</b>	<b>Revised Contract Value</b>	<b>% Completed To Date</b>	<b>Amount Paid To Date</b>	<b>Amount Due</b>	<b>Retainage %</b>	<b>Retainage Amount</b>	<b>Explanation</b>

I declare, under penalty of perjury, that the information provided in this verification form and supporting documents is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

Notary Certificate:

Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Signature

\_\_\_\_\_  
Commission Expires

THIS PROJECT IS FUNDED BY THE



# STATE REVOLVING FUND

JOINTLY ADMINISTERED BY THE

**Rhode Island  
Infrastructure Bank**

**Vahid Ownjazayeri  
Chair**

**Jeffrey R. Diehl  
Executive Director**



**State of Rhode Island  
Department of Health**

**Daniel J. McKee  
Governor**

**Dr. Utpala Bandy,  
MD, MPH, Interim Director-  
RIDOH**



***"Dedicated To Protecting And Preserving Our State's Most Important Resource...Clean Water"***





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*"Dedicated To Protecting And Preserving Our State's Most Important Resource...Clean Water"*

Grade

Navy Blue

8'



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Department of Health**

**Daniel J. McKee  
Governor**

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MD, MPH, Interim Director-  
RIDOH**



*"Dedicated To Protecting And Preserving Our State's Most Important Resource...Clean Water"*

4'

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2"

4"

5"

4"

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3"

4"

2"

3"

2"

3"

4"

2"

3"

### DAVIS-BACON ACT QUESTIONNAIRE

1. Will there be any laborers, mechanics, or other employees assigned to this project that are not covered in one of the labor categories on the attached Davis-Bacon Wage Determination form?
  
2. If yes, please list those labor categories. Pare will request a wage rate determination from the Federal Department of Labor. These labor categories not included on the attached Davis-Bacon form will be paid in accordance with the wage rates determined by the Federal Department of Labor.

## **DAVIS-BACON PREVAILING WAGE REQUIREMENTS**

### **(a) GENERAL CONTRACT AND SUBCONTRACT PROVISIONS**

For any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1 or the FY 2010 appropriation, the following clauses shall be inserted in full:

#### **(1) Minimum Wages**

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Wage determinations may be obtained from the U.S. Department of Labor's website, [www.dol.gov](http://www.dol.gov).

(ii)(A) The Owner, on behalf of the EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

( 1 ) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

( 2 ) The classification is utilized in the area by the construction industry; and

( 3 ) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Owner agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the Owner to the State award official. The State award official will transmit the request to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Owner do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **(2) Withholding**

The Owner, shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this

contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

### **(3) Payrolls and Basic Records**

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Owner, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the Owner shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee ( e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the owner for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of

compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Owner.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

( 1 ) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

( 2 ) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

( 3 ) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **(4) Apprentices and Trainees**

(i) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of

Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.



## **(5) Compliance with Copeland Act Requirements**

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

## **(6) Subcontracts**

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

## **(7) Contract Termination: Debarment**

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

## **(8) Compliance with Davis-Bacon and Related Act Requirements**

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

## **(9) Disputes Concerning Labor Standards**

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the Owner, the State, EPA, the U.S. Department of Labor, or the employees or their representatives.

## **(10) Certification of Eligibility**

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

## **(b) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

For any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act, the following clauses set forth in paragraphs (b) (1), (2), (3) and (4) of this section shall be inserted in full. These clauses shall be inserted in addition to the clauses required in Section (a), above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

### **(1) Overtime Requirements**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

### **(2) Violation; Liability for Unpaid Wages; Liquidated Damages**

In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

### **(3) Withholding for Unpaid Wages and Liquidated Damages**

The Owner, upon written request of the EPA Award Official or an authorized representative of the Department of Labor shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

### **(4) Subcontracts**

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

### **(c) MAINTENANCE OF RECORDS**

In addition to the clauses contained in Section (a), above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in §5.1 the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Owner, the State, EPA and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

### **(d) COMPLIANCE VERIFICATION**

(1) The Owner shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The Owner must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(2) The Owner shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the Owner should conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. Owners must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB . Owners shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(3) The Owner shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The Owner shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the Owner should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract . Owners must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the Owner shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(4) The Owner shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees

and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(5) Owners must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/esa/contacts/whd/america2.htm>.

"General Decision Number: RI20230001 09/01/2023

Superseded General Decision Number: RI20220001

State: Rhode Island

Construction Types: Building, Heavy (Heavy and Marine) and Highway

Counties: Rhode Island Statewide.

BUILDING CONSTRUCTION PROJECTS (does not include residential construction consisting of single family homes and apartments up to and including 4 stories) HEAVY, HIGHWAY AND MARINE CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/06/2023
1	01/13/2023
2	02/03/2023
3	03/17/2023
4	04/14/2023
5	05/12/2023
6	06/02/2023
7	06/16/2023
8	06/30/2023
9	08/25/2023
10	09/01/2023

ASBE0006-006 06/01/2023

Rates Fringes

HAZARDOUS MATERIAL HANDLER  
(Includes preparation, wetting, stripping, removal

scrapping, vacuuming, bagging  
& disposing of all insulation  
materials, whether they  
contain asbestos or not, from  
mechanical systems).....\$ 39.80 26.05

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ASBE0006-008 09/01/2021

Rates Fringes

Asbestos Worker/Insulator  
Includes application of  
all insulating materials,  
protective coverings,  
coatings & finishes to all  
types of mechanical systems.\$ 45.00 32.89

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BOIL0029-001 01/01/2021

Rates Fringes

BOILERMAKER.....\$ 45.87 29.02

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BRRI0003-001 06/01/2022

Rates Fringes

Bricklayer, Stonemason,  
Pointer, Caulker & Cleaner.....\$ 46.86 29.14

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BRRI0003-002 09/01/2022

Rates Fringes

Marble Setter, Terrazzo  
Worker & Tile Setter.....\$ 46.54 30.34

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BRRI0003-003 09/01/2022

Rates Fringes

Marble, Tile & Terrazzo  
Finisher.....\$ 38.78 29.61

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CARP0330-001 06/05/2023

Rates Fringes

CARPENTER (Includes Soft  
Floor Layer).....\$ 42.78 30.00  
Diver Tender.....\$ 43.78 30.00  
DIVER.....\$ 55.93 30.00  
Piledriver.....\$ 41.53 29.35  
WELDER.....\$ 43.78 30.00

#### FOOTNOTES:

When not diving or tending the diver, the diver and diver  
tender shall receive the piledriver rate. Diver tenders  
shall receive \$1.00 per hour above the pile driver rate  
when tending the diver.

Work on free-standing stacks, concrete silos & public utility  
electrical power houses, which are over 35 ft. in height  
when constructed: \$.50 per hour additional.

Work on exterior concrete shear wall gang forms, 45 ft. or  
more above ground elevation or on setback: \$.50 per hour  
additional.

The designated piledriver, known as the "monkey": \$1.00 per  
hour additional.

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CARP1121-002 01/02/2023

Rates Fringes

MILLWRIGHT.....\$ 41.54 30.73

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ELEC0099-002 06/01/2023

Rates Fringes

ELECTRICIAN.....\$ 48.61 50.44%  
Teledata System Installer.....\$ 36.46 11.59%+15.31

## FOOTNOTES:

Work of a hazardous nature, or where the work height is 30 ft. or more from the floor, except when working OSHA-approved lifts: 20% per hour additional.

Work in tunnels below ground level in combined sewer outfall: 20% per hour additional.

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ELEV0039-001 01/01/2023

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 59.36	37.335+a+b

## FOOTNOTES:

a. PAID HOLIDAYS: New Years Day; Memorial Day; Independence Day; Labor Day; Veterans' Day; Thanksgiving Day; the Friday after Thanksgiving Day; and Christmas Day.

b. Employer contributes 8% basic hourly rate for 5 years or more of service of 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

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ENGI0057-001 06/01/2023

	Rates	Fringes
Operating Engineer: (power plants, sewer treatment plants, pumping stations, tunnels, caissons, piers, docks, bridges, wind turbines, subterranean & other marine and heavy construction work)		
GROUP 1.....	\$ 45.55	29.45
GROUP 2.....	\$ 43.55	29.45
GROUP 3.....	\$ 39.17	29.45
GROUP 4.....	\$ 36.32	29.45
GROUP 5.....	\$ 42.60	29.45
GROUP 6.....	\$ 33.40	29.45
GROUP 7.....	\$ 27.40	29.45
GROUP 8.....	\$ 39.25	29.45
GROUP 9.....	\$ 43.17	29.45

## a. BOOM LENGTHS, INCLUDING JIBS:

150 feet and over + \$ 2.00  
180 feet and over + \$ 3.00  
210 feet and over + \$ 4.00  
240 feet and over + \$ 5.00  
270 feet and over + \$ 7.00  
300 feet and over + \$ 8.00  
350 feet and over + \$ 9.00  
400 feet and over + \$10.00

## a. PAID HOLIDAYS:

New Year's Day, President's Day, Memorial Day, July Fourth, Victory Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day. a: Any employee who works 3 days in the week in which a holiday falls shall be paid for the holiday.

## a. FOOTNOTES:

Hazmat work: \$2.00 per hour additional.  
Tunnel/Shaft work: \$5.00 per hour additional.

## POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Cranes, lighters, boom trucks and derricks

GROUP 2: Digging machine, Ross Carrier, locomotive, hoist, elevator, bidwell-type machine, shot & water blasting machine, paver, spreader, graders, front end loader (3 yds. and over), vibratory hammer & vacuum truck, roadheaders, forklifts, econobile type equipment, tunnel boring machines, concrete pump and on site concrete plants.

GROUP 3: Oilers on cranes.

GROUP 4: Oiler on crawler backhoe.

GROUP 5: Bulldozer, bobcats, skid steer loader, tractor, scraper, combination loader backhoe, roller, front end loader (less than 3 yds.), street and mobile-powered sweeper (3-yd. capacity), 8-ft. sweeper minimum 65 HP).

GROUP 6: Well-point installation crew.

GROUP 7: Utility Engineers and Signal Persons

GROUP 8: Heater, concrete mixer, stone crusher, welding machine, generator and light plant, gas and electric driven pump and air compressor.

GROUP 9: Boat & tug operator.

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ENGI0057-002 05/01/2023

	Rates	Fringes
Power Equipment Operator (highway construction projects; water and sewerline projects which are incidental to highway construction projects; and bridge projects that do not span water)		
GROUP 1.....	\$ 40.70	29.25
GROUP 2.....	\$ 33.40	29.25
GROUP 3.....	\$ 20.00	29.25
GROUP 4.....	\$ 33.98	29.25
GROUP 5.....	\$ 37.68	29.25
GROUP 6.....	\$ 37.68	29.25
GROUP 7.....	\$ 32.95	29.25
GROUP 8.....	\$ 32.33	29.25
GROUP 9.....	\$ 34.28	29.25

a. FOOTNOTE: a. Any employee who works three days in the week in which a holiday falls shall be paid for the holiday.

a. PAID HOLIDAYS: New Year's Day, President's Day, Memorial Day, July Fourth, Victory Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day & Christmas Day.

#### POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Digging machine, crane, piledriver, lighter, locomotive, derrick, hoist, boom truck, John Henry's, directional drilling machine, cold planer, reclaimer, paver, spreader, grader, front end loader (3 yds. and over), vacuum truck, test boring machine operator, veemere saw, water blaster, hydro-demolition robot, forklift, economobile, Ross Carrier, concrete pump operator and boats

GROUP 2: Well point installation crew

GROUP 3: Utility engineers and signal persons

GROUP 4: Oiler on cranes

GROUP 5: Combination loader backhoe, front end loader (less than 3 yds.), forklift, bulldozers & scrapers and boats

GROUP 6: Roller, skid steer loaders, street sweeper

GROUP 7: Gas and electric drive heater, concrete mixer, light plant, welding machine, pump & compressor

GROUP 8: Stone crusher

GROUP 9: Mechanic & welder

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ENGI0057-003 06/01/2023

#### BUILDING CONSTRUCTION

	Rates	Fringes
Power Equipment Operator		
GROUP 1.....	\$ 44.82	29.90
GROUP 2.....	\$ 42.82	29.90
GROUP 3.....	\$ 42.60	29.90
GROUP 4.....	\$ 38.60	29.90



GROUP 5.....	\$ 35.75	29.90
GROUP 6.....	\$ 41.90	29.90
GROUP 7.....	\$ 41.47	29.90
GROUP 8.....	\$ 38.79	29.90

## a. BOOM LENGTHS, INCLUDING JIBS:

150 ft. and over: + \$ 2.00  
 180 ft. and over: + \$ 3.00  
 210 ft. and over: + \$ 4.00  
 240 ft. and over: + \$ 5.00  
 270 ft. and over: + \$ 7.00  
 300 ft. and over: + \$ 8.00  
 350 ft. and over: + \$ 9.00  
 400 ft. and over: + \$10.00

a. PAID HOLIDAYS: New Year's Day, President's Day, Memorial Day, July Fourth, Victory Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day & Christmas Day. a: Any employee who works 3 days in the week in which a holiday falls shall be paid for the holiday.

a. FOOTNOTE: Hazmat work: \$2.00 per hour additional.  
 Tunnel/Shaft work: \$5.00 per hour additional.

## POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Cranes, lighters, boom trucks and derricks.

GROUP 2: Digging machine, Ross carrier, locomotive, hoist, elevator, bidwell-type machine, shot & water blasting machine, paver, spreader, front end loader (3 yds. and over), vibratory hammer and vacuum truck

GROUP 3: Telehandler equipment, forklift, concrete pump & on-site concrete plant

GROUP 4: Fireman & oiler on cranes

GROUP 5: Oiler on crawler backhoe

GROUP 6: Bulldozer, skid steer loaders, bobcats, tractor, grader, scraper, combination loader backhoe, roller, front end loader (less than 3 yds.), street and mobile powered sweeper (3 yds. capacity), 8-ft. sweeper (minimum 65 hp)

GROUP 7: Well point installation crew

GROUP 8: Heater, concrete mixer, stone crusher, welding machine, generator for light plant, gas and electric driven pump & air compressor

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 IRON0037-001 03/16/2023

	Rates	Fringes
IRONWORKER.....	\$ 39.50	32.08

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 LAB00271-001 11/27/2022

## BUILDING CONSTRUCTION

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 35.50	26.85
GROUP 2.....	\$ 35.75	26.85
GROUP 3.....	\$ 36.25	26.85
GROUP 4.....	\$ 36.50	26.85
GROUP 5.....	\$ 37.50	26.85
LABORERS CLASSIFICATIONS		

GROUP 1: Laborer, Carpenter Tender, Mason Tender, Cement Finisher Tender, Scaffold Erector, Wrecking Laborer, Asbestos Removal [Non-Mechanical Systems]

GROUP 2: Asphalt Raker, Adzemen, Pipe Trench Bracer, Demolition Burner, Chain Saw Operator, Fence & Guard Rail Erector, Setter of Metal Forms for Roadways, Mortar Mixer, Pipelayer, Riprap & Dry Stonewall Builder, Highway Stone Spreader, Pneumatic Tool Operator, Wagon Drill Operator, Tree Trimmer, Barco-Type Jumping Tamper, Mechanical Grinder Operator

GROUP 3: Pre-Cast Floor & Roof Plank Erectors

GROUP 4: Air Track Operator, Hydraulic & Similar Self-Powered Drill, Block Paver, Rammer, Curb Setter, Powderman & Blaster

GROUP 5: Toxic Waste Remover

#### LABORERS CLASSIFICATIONS

GROUP 1: Laborer, Carpenter Tender, Mason Tender, Cement Finisher Tender, Scaffold Erector, Wrecking Laborer, Asbestos Removal [Non-Mechanical Systems]

GROUP 2: Asphalt Raker, Adzemen, Pipe Trench Bracer, Demolition Burner, Chain Saw Operator, Fence & Guard Rail Erector, Setter of Metal Forms for Roadways, Mortar Mixer, Pipelayer, Riprap & Dry Stonewall Builder, Highway Stone Spreader, Pneumatic Tool Operator, Wagon Drill Operator, Tree Trimmer, Barco-Type Jumping Tamper, Mechanical Grinder Operator

GROUP 3: Pre-Cast Floor & Roof Plank Erectors

GROUP 4: Air Track Operator, Hydraulic & Similar Self-Powered Drill, Block Paver, Rammer, Curb Setter, Powderman & Blaster

GROUP 5: Toxic Waste Remover

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LAB00271-002 11/27/2022

#### HEAVY AND HIGHWAY CONSTRUCTION

	Rates	Fringes
LABORER		
COMPRESSED AIR		
Group 1.....	\$ 55.40	24.15
Group 2.....	\$ 52.93	24.15
Group 3.....	\$ 42.45	24.15
FREE AIR		
Group 1.....	\$ 44.05	24.15
Free Air		
Group 1.....	\$ 46.00	24.15
FREE AIR		
Group 2.....	\$ 43.05	24.15
Free Air		
Group 2.....	\$ 45.00	24.15
FREE AIR		
Group 3.....	\$ 40.50	24.15
Free Air		
Group 3.....	\$ 42.45	24.15
LABORER		
Group 1.....	\$ 35.50	24.85
Group 2.....	\$ 35.75	24.85
Group 3.....	\$ 36.50	24.85
Group 4.....	\$ 29.00	24.85
Group 5.....	\$ 37.50	24.85
OPEN AIR CAISSON, UNDERPINNING WORK AND BORING CREW		
Bottom Man.....	\$ 41.50	24.15
Top Man & Laborer.....	\$ 35.60	24.15
TEST BORING		
Driller.....	\$ 41.95	24.15
Laborer.....	\$ 41.95	24.15

#### LABORER CLASSIFICATIONS

GROUP 1: Laborer; Carpenter tender; Cement finisher tender; Wrecking laborer; Asbestos removers [non-mechanical systems]; Plant laborer; Driller in quarries

GROUP 2: Adzeperson; Asphalt raker; Barcotype jumping tamper; Chain saw operators; Concrete and power buggy operator; Concrete saw operator; Demolition burner; Fence and guard rail erector; Highway stone spreader; Laser beam operator; Mechanical grinder operator; Mason tender; Mortar mixer; Pneumatic tool operator; Riprap and dry stonewall builder; Scaffold erector; Setter of metal forms for roadways; Wagon drill operator; Wood chipper operator; Pipelayer; Pipe trench bracer

GROUP 3: Air track drill operator; Hydraulic and similar powered drills; Brick paver; Block paver; Rammer and curb setter; Powderperson and blaster

GROUP 4: Flagger & signaler

GROUP 5: Toxic waste remover

LABORER - COMPRESSED AIR CLASSIFICATIONS

GROUP 1: Mucking machine operator, tunnel laborer, brake person, track person, miner, grout person, lock tender, gauge tender, miner: motor person & all others in compressed air

GROUP 2: Change house attendant, powder watchperson, top person on iron

GROUP 3: Hazardous waste work within the ""HOT"" zone

LABORER - FREE AIR CLASSIFICATIONS

GROUP 1: Grout person - pumps, brake person, track person, form mover & stripper (wood & steel), shaft laborer, laborer topside, outside motorperson, miner, conveyor operator, miner welder, heading motorperson, erecting operator, mucking machine operator, nozzle person, rodperson, safety miner, shaft & tunnel, steel & rodperson, mole nipper, concrete worker, form erector (wood, steel and all accessories), cement finisher (this type of work only), top signal person, bottom person (when heading is 50' from shaft), burner, shield operator and TBM operator

GROUP 2: Change house attendant, powder watchperson

GROUP 3: Hazardous waste work within the ""HOT"" zone

LABORER CLASSIFICATIONS

GROUP 1: Laborer; Carpenter tender; Cement finisher tender; Wrecking laborer; Asbestos removers [non-mechanical systems]; Plant laborer; Driller in quarries

GROUP 2: Adzeperson; Asphalt raker; Barcotype jumping tamper; Chain saw operators; Concrete and power buggy operator; Concrete saw operator; Demolition burner; Fence and guard rail erector; Highway stone spreader; Laser beam operator; Mechanical grinder operator; Mason tender; Mortar mixer; Pneumatic tool operator; Riprap and dry stonewall builder; Scaffold erector; Setter of metal forms for roadways; Wagon drill operator; Wood chipper operator; Pipelayer; Pipe trench bracer

GROUP 3: Air track drill operator; Hydraulic and similar powered drills; Brick paver; Block paver; Rammer and curb setter; Powderperson and blaster

GROUP 4: Flagger & signaler

GROUP 5: Toxic waste remover

LABORER - COMPRESSED AIR CLASSIFICATIONS

GROUP 1: Mucking machine operator, tunnel laborer, brake person, track person, miner, grout person, lock tender, gauge tender, miner: motor person & all others in compressed air

GROUP 2: Change house attendant, powder watchperson, top person on iron

GROUP 3: Hazardous waste work within the ""HOT"" zone

LABORER - FREE AIR CLASSIFICATIONS

GROUP 1: Grout person - pumps, brake person, track person, form mover & stripper (wood & steel), shaft laborer, laborer topside, outside motorperson, miner, conveyor operator, miner welder, heading motorperson, erecting operator, mucking machine operator, nozzle person, rodperson, safety miner, shaft & tunnel, steel & rodperson, mole nipper, concrete worker, form erector (wood, steel and all accessories), cement finisher (this type of work only), top signal person, bottom person (when heading is 50' from shaft), burner, shield operator and TBM operator

GROUP 2: Change house attendant, powder watchperson

GROUP 3: Hazardous waste work within the ""HOT"" zone

PAIN0011-005 06/01/2023

	Rates	Fringes
PAINTER		
Brush and Roller.....	\$ 37.62	22.85
Epoxy, Tanks, Towers, Swing Stage & Structural Steel.....	\$ 39.62	22.85
Spray, Sand & Water Blasting.....	\$ 40.62	22.85
Taper.....	\$ 38.37	22.85
Wall Coverer.....	\$ 38.12	22.85

PAIN0011-006 06/01/2022

	Rates	Fringes
GLAZIER.....	\$ 40.78	23.40

## FOOTNOTES:

SWING STAGE: \$1.00 per hour additional.

PAID HOLIDAYS: Labor Day &amp; Christmas Day.

PAIN0011-011 06/01/2023

	Rates	Fringes
Painter (Bridge Work).....	\$ 56.25	23.45

PAIN0035-008 06/01/2011

	Rates	Fringes
Sign Painter.....	\$ 24.79	13.72

PLAS0040-001 06/05/2023

## BUILDING CONSTRUCTION

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 42.77	29.63

FOOTNOTE: Cement Mason: Work on free swinging scaffolds under  
3 planks width and which is 20 or more feet above ground  
and any offset structure: \$.30 per hour additional.

PLAS0040-002 07/01/2023

## HEAVY AND HIGHWAY CONSTRUCTION

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 37.45	24.85

PLAS0040-003 06/05/2023

	Rates	Fringes
PLASTERER.....	\$ 42.77	29.63

\* PLUM0051-002 08/28/2023

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 50.59	32.75

ROOF0033-004 08/01/2023

	Rates	Fringes
ROOFER.....	\$ 50.03	33.69

SFRI0669-001 04/01/2023

	Rates	Fringes
SPRINKLER FITTER.....	\$ 47.55	32.27

SHEE0017-002 12/01/2020

	Rates	Fringes
Sheet Metal Worker.....	\$ 38.58	36.73

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TEAM0251-001 05/01/2023

#### HEAVY AND HIGHWAY CONSTRUCTION

	Rates	Fringes
TRUCK DRIVER		
GROUP 1.....	\$ 29.71	34.602+A+B
GROUP 2.....	\$ 29.86	34.602+A+B
GROUP 3.....	\$ 29.91	34.602+A+B
GROUP 4.....	\$ 29.96	34.602+A+B
GROUP 5.....	\$ 30.06	34.602+A+B
GROUP 6.....	\$ 30.46	34.602+A+B
GROUP 7.....	\$ 30.66	34.602+A+B
GROUP 8.....	\$ 30.16	34.602+A+B
GROUP 9.....	\$ 30.41	34.602+A+B
GROUP 10.....	\$ 30.21	34.602+A+B

#### FOOTNOTES:

A. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, plus Presidents' Day, Columbus Day, Veteran's Day & V-J Day, providing the employee has worked at least one day in the calendar week in which the holiday falls.

B. Employee who has been on the payroll for 1 year or more but less than 5 years and has worked 150 Days during the last year of employment shall receive 1 week's paid vacation; 5 to 10 years - 2 weeks' paid vacation; 10 or more years - 3 week's paid vacation.

C. Employees on the seniority list shall be paid a one hundred dollar (\$100.00) bonus for every four hundred (400) hours worked, up to a maximum of five hundred dollars (\$500.00)

All drivers working on a defined hazard material job site shall be paid a premium of \$2.00 per hour over applicable rate.

#### TRUCK DRIVER CLASSIFICATIONS

GROUP 1: Pick-up trucks, station wagons, & panel trucks

GROUP 2: Two-axle on low beds

GROUP 3: Two-axle dump truck

GROUP 4: Three-axle dump truck

GROUP 5: Four- and five-axle equipment

GROUP 6: Low-bed or boom trailer.

GROUP 7: Trailers when used on a double hook up (pulling 2 trailers)

GROUP 8: Special earth-moving equipment, under 35 tons

GROUP 9: Special earth-moving equipment, 35 tons or over

GROUP 10: Tractor trailer

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other

health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

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

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

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

## WAGE DETERMINATION APPEALS PROCESS

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

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

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

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

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

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

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

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

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

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

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

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END OF GENERAL DECISIO"

# DEBARMENT & SUSPENSION

## Executive Order 12549--Debarment and Suspension

**Source:** The provisions of Executive Order 12549 of Feb. 18, 1986, appear at 51 FR 6370, 3 CFR, 1986 Comp., p. 189, unless otherwise noted.

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

**Section 1.** (a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

(b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.

(c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

**Sec. 2.** To the extent permitted by law, Executive departments and agencies shall:

(a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.

(b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.

(c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that exceptions to this policy should be granted only infrequently.

**Sec. 3.** Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.



**Sec. 4.** There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

**Sec. 5.** The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

**Sec. 6.** The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe government-wide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

**Sec. 7.** The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make recommendations as are appropriate further to curb fraud, waste, and abuse.

## **Implementation in the SRF Programs**

A company or individual who is debarred or suspended cannot participate in primary and lower-tiered covered transactions. These transactions include SRF loans and contracts and subcontracts awarded with SRF loan funds.

Under 40 C.F.R. 32.510, the SRF agency must submit a certification stating that it shall not knowingly enter into any transaction with a person who is proposed for debarment, suspended, declared ineligible, or voluntarily excluded from participation in the SRF program. This certification is reviewed by the EPA regional office before the capitalization grant is awarded.

A recipient of SRF assistance directly made available by capitalization grants must provide a certification that it will not knowingly enter into a contract with anyone who is ineligible under the regulations to participate in the project. Contractors on the project have to provide a similar certification prior to the award of a contract and subcontractors on the project have to provide the general contractor with the certification prior to the award of any subcontract.

In addition to actions taken under 40 C.F.R. Part 32, there are a wide range of other sanctions that can render a party ineligible to participate in the SRF program. Lists of debarred, suspended and otherwise ineligible parties are maintained by the General Services Administration and should be checked by the SRF agency and all recipients of funds directly made available by capitalization grants to ensure the accuracy of certifications.

## **Additional References**

C 40 C.F.R. Part 32: EPA Regulations on Debarment and Suspension.

## **CERTIFICATION REGARDING DEBARMENT & SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

In accordance with the Executive Order 12549, the prospective primary participant certifies to the best of his / her knowledge and belief, that its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification.
- d. Have not within a three-year period preceding this application / proposal had one or more public transactions (federal, state, or local) terminated for cause of default.
- e. Acknowledge that all sub-contractors selected for this project must be in compliance with paragraphs (1) (a – d) of this certification.

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Name and Title of Authorized Agent

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Date

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Signature of Authorized Agent

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Company Name

\_\_\_\_\_ I am unable to certify to the above statements. My explanation is attached.




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

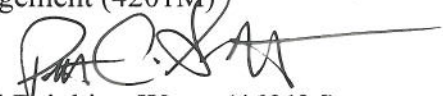
MAR 20 2014

OFFICE OF WATER

**MEMORANDUM**

SUBJECT: Implementation of American Iron and Steel provisions of P.L. 113-76,  
Consolidated Appropriations Act, 2014

FROM: For Andrew D. Sawyers, Director   
Office of Wastewater Management (4201M)

Peter C. Grevatt, Director   
Office of Ground Water and Drinking Water (4601M)

TO: Water Management Division Directors  
Regions I - X

P.L. 113-76, Consolidated Appropriations Act, 2014 (Act), includes an "American Iron and Steel (AIS)" requirement in section 436 that requires Clean Water State Revolving Loan Fund (CWSRF) and Drinking Water State Revolving Loan Fund (DWSRF) assistance recipients to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, or repair of a public water system or treatment works if the project is funded through an assistance agreement executed beginning January 17, 2014 (enactment of the Act), through the end of Federal Fiscal Year 2014.

Section 436 also sets forth certain circumstances under which EPA may waive the AIS requirement. Furthermore, the Act specifically exempts projects where engineering plans and specifications were approved by a State agency prior to January 17, 2014.

The approach described below explains how EPA will implement the AIS requirement. The first section is in the form of questions and answers that address the types of projects that must comply with the AIS requirement, the types of products covered by the AIS requirement, and compliance. The second section is a step-by-step process for requesting waivers and the circumstances under which waivers may be granted.

## Implementation

The Act states:

Sec. 436. (a)(1) None of the funds made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

(2) In this section, the term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the “Administrator”) finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

(e) The Administrator may retain up to 0.25 percent of the funds appropriated in this Act for the Clean and Drinking Water State Revolving Funds for carrying out

the provisions described in subsection (a)(1) for management and oversight of the requirements of this section.

(f) This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of the enactment of this Act.

The following questions and answers provide guidance for implementing and complying with the AIS requirements:

### **Project Coverage**

#### **1) What classes of projects are covered by the AIS requirement?**

All treatment works projects funded by a CWSRF assistance agreement, and all public water system projects funded by a DWSRF assistance agreement, from the date of enactment through the end of Federal Fiscal Year 2014, are covered. The AIS requirements apply to the entirety of the project, no matter when construction begins or ends. Additionally, the AIS requirements apply to all parts of the project, no matter the source of funding.

#### **2) Does the AIS requirement apply to nonpoint source projects or national estuary projects?**

No. Congress did not include an AIS requirement for nonpoint source and national estuary projects unless the project can also be classified as a 'treatment works' as defined by section 212 of the Clean Water Act.

#### **3) Are any projects for the construction, alteration, maintenance, or repair of a public water system or treatment works excluded from the AIS requirement?**

Any project, whether a treatment works project or a public water system project, for which engineering plans and specifications were approved by the responsible state agency prior to January 17, 2014, is excluded from the AIS requirements.

#### **4) What if the project does not have approved engineering plans and specifications but has signed an assistance agreement with a CWSRF or DWSRF program prior to January 17, 2014?**

The AIS requirements do not apply to any project for which an assistance agreement was signed prior to January 17, 2014.

**5) What if the project does not have approved engineering plans and specifications, but bids were advertised prior to January 17, 2014 and an assistance agreement was signed after January 17, 2014?**

If the project does not require approved engineering plans and specifications, the bid advertisement date will count in lieu of the approval date for purposes of the exemption in section 436(f).

**6) What if the assistance agreement that was signed prior to January 17, 2014, only funded a part of the overall project, where the remainder of the project will be funded later with another SRF loan?**

If the original assistance agreement funded any construction of the project, the date of the original assistance agreement counts for purposes of the exemption. If the original assistance agreement was only for planning and design, the date of that assistance agreement will count for purposes of the exemption only if there is a written commitment or expectation on the part of the assistance recipient to fund the remainder of the project with SRF funds.

**7) What if the assistance agreement that was signed prior to January 17, 2014, funded the first phase of a multi-phase project, where the remaining phases will be funded by SRF assistance in the future?**

In such a case, the phases of the project will be considered a single project if all construction necessary to complete the building or work, regardless of the number of contracts or assistance agreements involved, are closely related in purpose, time and place. However, there are many situations in which major construction activities are clearly undertaken in phases that are distinct in purpose, time, or place. In the case of distinct phases, projects with engineering plans and specifications approval or assistance agreements signed prior to January 17, 2014 would be excluded from AIS requirements while those approved/signed on January 17, 2014, or later would be covered by the AIS requirements.

**8) What if a project has split funding from a non-SRF source?**

Many States intend to fund projects with “split” funding, from the SRF program and from State or other programs. Based on the Act language in section 436, which requires that American iron and steel products be used in any project for the construction, alteration, maintenance, or repair of a public water system or treatment works receiving SRF funding between and including January 17, 2014 and September 30, 2014, any project that is funded in whole or in part with such funds must comply with the AIS requirement. A “project” consists of all construction necessary to complete the building or work regardless of the number of contracts or assistance agreements involved so long as all contracts and assistance agreements awarded are closely related in purpose, time and place. This precludes the intentional splitting of SRF projects into separate and smaller contracts or assistance agreements to avoid AIS coverage on some portion of a larger

project, particularly where the activities are integrally and proximately related to the whole. However, there are many situations in which major construction activities are clearly undertaken in separate phases that are distinct in purpose, time, or place, in which case, separate contracts or assistance agreement for SRF and State or other funding would carry separate requirements.

**9) What about refinancing?**

If a project began construction, financed from a non-SRF source, prior to January 17, 2014, but is refinanced through an SRF assistance agreement executed on or after January 17, 2014 and prior to October 1, 2014, AIS requirements will apply to all construction that occurs on or after January 17, 2014, through completion of construction, unless, as is likely, engineering plans and specifications were approved by a responsible state agency prior to January 17, 2014. There is no retroactive application of the AIS requirements where a refinancing occurs for a project that has completed construction prior to January 17, 2014.

**10) Do the AIS requirements apply to any other EPA programs, besides the SRF program, such as the Tribal Set-aside grants or grants to the Territories and DC?**

No, the AIS requirement only applies to funds made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12)

**Covered Iron and Steel Products**

**11) What is an iron or steel product?**

For purposes of the CWSRF and DWSRF projects that must comply with the AIS requirement, an iron or steel product is one of the following made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:

- Lined or unlined pipes or fittings;
- Manhole Covers;
- Municipal Castings (defined in more detail below);
- Hydrants;
- Tanks;
- Flanges;
- Pipe clamps and restraints;
- Valves;
- Structural steel (defined in more detail below);
- Reinforced precast concrete; and
- Construction materials (defined in more detail below).

**12) What does the term ‘primarily iron or steel’ mean?**

‘Primarily iron or steel’ places constraints on the list of products above. For one of the listed products to be considered subject to the AIS requirements, it must be made of greater than 50% iron or steel, measured by cost. The cost should be based on the material costs.

**13) Can you provide an example of how to perform a cost determination?**

For example, the iron portion of a fire hydrant would likely be the bonnet, body and shoe, and the cost then would include the pouring and casting to create those components. The other material costs would include non-iron and steel internal workings of the fire hydrant (i.e., stem, coupling, valve, seals, etc). However, the assembly of the internal workings into the hydrant body would not be included in this cost calculation. If one of the listed products is not made primarily of iron or steel, United States (US) provenance is not required. An exception to this definition is reinforced precast concrete, which is addressed in a later question.

**14) If a product is composed of more than 50% iron or steel, but is not listed in the above list of items, must the item be produced in the US? Alternatively, must the iron or steel in such a product be produced in the US?**

The answer to both question is no. Only items on the above list must be produced in the US. Additionally, the iron or steel in a non-listed item can be sourced from outside the US.

**15) What is the definition of steel?**

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel and other specialty steels.

**16) What does ‘produced in the United States’ mean?**

Production in the United States of the iron or steel products used in the project requires that all manufacturing processes, including application of coatings, must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives. All manufacturing processes includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating and coating. Further, if a domestic iron and steel product is taken out of the US for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the



material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin.

**17) Are the raw materials used in the production of iron or steel required to come from US sources?**

No. Raw materials, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-US sources.

**18) If an above listed item is primarily made of iron or steel, but is only at the construction site temporarily, must such an item be produced in the US?**

No. Only the above listed products made primarily of iron or steel, permanently incorporated into the project must be produced in the US. For example trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

**19) What is the definition of ‘municipal castings’?**

Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:

- Access Hatches;
- Ballast Screen;
- Benches (Iron or Steel);
- Bollards;
- Cast Bases;
- Cast Iron Hinged Hatches, Square and Rectangular;
- Cast Iron Riser Rings;
- Catch Basin Inlet;
- Cleanout/Monument Boxes;
- Construction Covers and Frames;
- Curb and Corner Guards;
- Curb Openings;
- Detectable Warning Plates;
- Downspout Shoes (Boot, Inlet);
- Drainage Grates, Frames and Curb Inlets;
- Inlets;
- Junction Boxes;
- Lampposts;
- Manhole Covers, Rings and Frames, Risers;

Meter Boxes;  
Service Boxes;  
Steel Hinged Hatches, Square and Rectangular;  
Steel Riser Rings;  
Trash receptacles;  
Tree Grates;  
Tree Guards;  
Trench Grates; and  
Valve Boxes, Covers and Risers.

## **20) What is ‘structural steel’?**

Structural steel is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees and zees. Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

## **21) What is a ‘construction material’ for purposes of the AIS requirement?**

Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”. This includes, but is not limited to, the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (i.e., nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels, dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, and stationary screens.

## **22) What is not considered a ‘construction material’ for purposes of the AIS requirement?**

Mechanical and electrical components, equipment and systems are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system.

The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials: pumps, motors, gear reducers, drives (including variable frequency drives (VFDs)), electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and

data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters, heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, analytical instrumentation, and dewatering equipment.

**23) If the iron or steel is produced in the US, may other steps in the manufacturing process take place outside of the US, such as assembly?**

No. Production in the US of the iron or steel used in a listed product requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

**24) What processes must occur in the US to be compliant with the AIS requirement for reinforced precast concrete?**

While reinforced precast concrete may not be at least 50% iron or steel, in this particular case, the reinforcing bar and wire must be produced in the US and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the US. The cement and other raw materials used in concrete production are not required to be of domestic origin.

If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the US.

**Compliance**

**25) How should an assistance recipient document compliance with the AIS requirement?**

In order to ensure compliance with the AIS requirement, specific AIS contract language must be included in each contract, starting with the assistance agreement, all the way down to the purchase agreements. Sample language for assistance agreements and contracts can be found in Appendix 3 and 4.

EPA recommends the use of a step certification process, similar to one used by the Federal Highway Administration. The step certification process is a method to ensure that producers adhere to the AIS requirement and assistance recipients can verify that products comply with the AIS requirement. The process also establishes accountability and better enables States to take enforcement actions against violators.

Step certification creates a paper trail which documents the location of the manufacturing process involved with the production of steel and iron materials. A step certification is a process under which each handler (supplier, fabricator, manufacturer,

processor, etc) of the iron and steel products certifies that their step in the process was domestically performed. Each time a step in the manufacturing process takes place, the manufacturer delivers its work along with a certification of its origin. A certification can be quite simple. Typically, it includes the name of the manufacturer, the location of the manufacturing facility where the product or process took place (not its headquarters), a description of the product or item being delivered, and a signature by a manufacturer's responsible party. Attached, as Appendix 5, are sample certifications. These certifications should be collected and maintained by assistance recipients.

Alternatively, the final manufacturer that delivers the iron or steel product to the worksite, vendor, or contractor, may provide a certification asserting that all manufacturing processes occurred in the US. While this type of certification may be acceptable, it may not provide the same degree of assurance. Additional documentation may be needed if the certification is lacking important information. Step certification is the best practice.

## **26) How should a State ensure assistance recipients are complying with the AIS requirement?**

In order to ensure compliance with the AIS requirement, States SRF programs must include specific AIS contract language in the assistance agreement. Sample language for assistance agreements can be found in Appendix 3.

States should also, as a best practice, conduct site visits of projects during construction and review documentation demonstrating proof of compliance which the assistance recipient has gathered.

## **27) What happens if a State or EPA finds a non-compliant iron and/or steel product permanently incorporated in the project?**

If a potentially non-compliant product is identified, the State should notify the assistance recipient of the apparent unauthorized use of the non-domestic component, including a proposed corrective action, and should be given the opportunity to reply. If unauthorized use is confirmed, the State can take one or more of the following actions: request a waiver where appropriate; require the removal of the non-domestic item; or withhold payment for all or part of the project. Only EPA can issue waivers to authorize the use of a non-domestic item. EPA may use remedies available to it under the Clean Water Act, the Safe Drinking Water Act, and 40 CFR part 31 grant regulations, in the event of a violation of a grant term and condition.

It is recommended that the State work collaboratively with EPA to determine the appropriate corrective action, especially in cases where the State is the one who identifies the item in noncompliance or there is a disagreement with the assistance recipient.

If fraud, waste, abuse, or any violation of the law is suspected, the Office of Inspector General (OIG) should be contacted immediately. The OIG can be reached at 1-

888-546-8740 or [OIG\\_Hotline@epa.gov](mailto:OIG_Hotline@epa.gov). More information can be found at this website: <http://www.epa.gov/oig/hotline.htm>.

## **28) How do international trade agreements affect the implementation of the AIS requirements?**

The AIS provision applies in a manner consistent with United States obligations under international agreements. Typically, these obligations only apply to direct procurement by the entities that are signatories to such agreements. In general, SRF assistance recipients are not signatories to such agreements, so these agreements have no impact on this AIS provision. In the few instances where such an agreement applies to a municipality, that municipality is under the obligation to determine its applicability and requirements and document the actions taken to comply for the State.

### **Waiver Process**

The statute permits EPA to issue waivers for a case or category of cases where EPA finds (1) that applying these requirements would be inconsistent with the public interest; (2) iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent.

In order to implement the AIS requirements, EPA has developed an approach to allow for effective and efficient implementation of the waiver process to allow projects to proceed in a timely manner. The framework described below will allow States, on behalf of the assistance recipients, to apply for waivers of the AIS requirement directly to EPA Headquarters. Only waiver requests received from states will be considered. Pursuant to the Act, EPA has the responsibility to make findings as to the issuance of waivers to the AIS requirements.

### **Definitions**

The following terms are critical to the interpretation and implementation of the AIS requirements and apply to the process described in this memorandum:

Reasonably Available Quantity: The quantity of iron or steel products is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design.

Satisfactory Quality: The quality of iron or steel products, as specified in the project plans and designs.

Assistance Recipient: A borrower or grantee that receives funding from a State CWSRF or DWSRF program.

## **Step-By-Step Waiver Process**

### Application by Assistance Recipient

Each local entity that receives SRF water infrastructure financial assistance is required by section 436 of the Act to use American made iron and steel products in the construction of its project. However, the recipient may request a waiver. Until a waiver is granted by EPA, the AIS requirement stands, except as noted above with respect to municipalities covered by international agreements.

The waiver process begins with the SRF assistance recipient. In order to fulfill the AIS requirement, the assistance recipient must in good faith design the project (where applicable) and solicit bids for construction with American made iron and steel products. It is essential that the assistance recipient include the AIS terms in any request for proposals or solicitations for bids, and in all contracts (see Appendix 3 for sample construction contract language). The assistance recipient may receive a waiver at any point before, during, or after the bid process, if one or more of three conditions is met:

1. Applying the American Iron and Steel requirements of the Act would be inconsistent with the public interest;
2. Iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
3. Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

Proper and sufficient documentation must be provided by the assistance recipient. A checklist detailing the types of information required for a waiver to be processed is attached as Appendix 1.

Additionally, it is strongly encouraged that assistance recipients hold pre-bid conferences with potential bidders. A pre-bid conference can help to identify iron and steel products needed to complete the project as described in the plans and specifications that may not be available from domestic sources. It may also identify the need to seek a waiver prior to bid, and can help inform the recipient on compliance options.

In order to apply for a project waiver, the assistance recipient should email the request in the form of a Word document (.doc) to the State SRF program. It is strongly recommended that the State designate a single person for all AIS communications. The State SRF designee will review the application for the waiver and determine whether the necessary information has been included. Once the waiver application is complete, the State designee will forward the application to either of two email addresses. For CWSRF waiver requests, please send the application to: [cwsrfwaiver@epa.gov](mailto:cwsrfwaiver@epa.gov). For DWSRF waiver requests, please send the application to: [dwsrfwaiver@epa.gov](mailto:dwsrfwaiver@epa.gov).

## Evaluation by EPA

After receiving an application for waiver of the AIS requirements, EPA Headquarters will publish the request on its website for 15 days and receive informal comment. EPA Headquarters will then use the checklist in Appendix 2 to determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver – that it is quantitatively and qualitatively sufficient – and to determine whether or not to grant the waiver.

In the event that EPA finds that adequate documentation and justification has been submitted, the Administrator may grant a waiver to the assistance recipient. EPA will notify the State designee that a waiver request has been approved or denied as soon as such a decision has been made. Granting such a waiver is a three-step process:

1. Posting – After receiving an application for a waiver, EPA is required to publish the application and all material submitted with the application on EPA's website for 15 days. During that period, the public will have the opportunity to review the request and provide informal comment to EPA. The website can be found at: [http://water.epa.gov/grants\\_funding/aisrequirement.cfm](http://water.epa.gov/grants_funding/aisrequirement.cfm)
2. Evaluation – After receiving an application for waiver of the AIS requirements, EPA Headquarters will use the checklist in Appendix 2 to determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver – that it is quantitatively and qualitatively sufficient – and to determine whether or not to grant the waiver.
3. Signature of waiver approval by the Administrator or another agency official with delegated authority – As soon as the waiver is signed and dated, EPA will notify the State SRF program, and post the signed waiver on our website. The assistance recipient should keep a copy of the signed waiver in its project files.

## Public Interest Waivers

EPA has the authority to issue public interest waivers. Evaluation of a public interest waiver request may be more complicated than that of other waiver requests so they may take more time than other waiver requests for a decision to be made. An example of a public interest waiver that might be issued could be for a community that has standardized on a particular type or manufacturer of a valve because of its performance to meet their specifications. Switching to an alternative valve may require staff to be trained on the new equipment and additional spare parts would need to be purchased and stocked, existing valves may need to be unnecessarily replaced, and portions of the system may need to be redesigned. Therefore, requiring the community to install an alternative valve would be inconsistent with public interest.

EPA also has the authority to issue a public interest waiver that covers categories of products that might apply to all projects.

EPA reserves the right to issue national waivers that may apply to particular classes of assistance recipients, particular classes of projects, or particular categories of iron or steel products. EPA may develop national or (US geographic) regional categorical waivers through the identification of similar circumstances in the detailed justifications presented to EPA in a waiver request or requests. EPA may issue a national waiver based on policy decisions regarding the public's interest or a determination that a particular item is not produced domestically in reasonably available quantities or of a sufficient quality. In such cases, EPA may determine it is necessary to issue a national waiver.

If you have any questions concerning the contents of this memorandum, you may contact us, or have your staff contact Jordan Dorfman, Attorney-Advisor, State Revolving Fund Branch, Municipal Support Division, at [dorfman.jordan@epa.gov](mailto:dorfman.jordan@epa.gov) or (202) 564-0614 or Kiri Anderer, Environmental Engineer, Infrastructure Branch, Drinking Water Protection Division, at [anderer.kirsten@epa.gov](mailto:anderer.kirsten@epa.gov) or (202) 564-3134.

Attachments



## Appendix 1: Information Checklist for Waiver Request

The purpose of this checklist is to help ensure that all appropriate and necessary information is submitted to EPA. EPA recommends that States review this checklist carefully and provide all appropriate information to EPA. This checklist is for informational purposes only and does not need to be included as part of a waiver application.

Items	✓	Notes
<p>General</p> <ul style="list-style-type: none"> <li>• Waiver request includes the following information: <ul style="list-style-type: none"> <li>— Description of the foreign and domestic construction materials</li> <li>— Unit of measure</li> <li>— Quantity</li> <li>— Price</li> <li>— Time of delivery or availability</li> <li>— Location of the construction project</li> <li>— Name and address of the proposed supplier</li> <li>— A detailed justification for the use of foreign construction materials</li> </ul> </li> <li>• Waiver request was submitted according to the instructions in the memorandum</li> <li>• Assistance recipient made a good faith effort to solicit bids for domestic iron and steel products, as demonstrated by language in requests for proposals, contracts, and communications with the prime contractor</li> </ul>		
<p>Cost Waiver Requests</p> <ul style="list-style-type: none"> <li>• Waiver request includes the following information: <ul style="list-style-type: none"> <li>— Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products</li> <li>— Relevant excerpts from the bid documents used by the contractors to complete the comparison</li> <li>— Supporting documentation indicating that the contractor made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers</li> </ul> </li> </ul>		
<p>Availability Waiver Requests</p> <ul style="list-style-type: none"> <li>• Waiver request includes the following supporting documentation necessary to demonstrate the availability, quantity, and/or quality of the materials for which the waiver is requested: <ul style="list-style-type: none"> <li>— Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials</li> <li>— Documentation of the assistance recipient's efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers.</li> <li>— Project schedule</li> <li>— Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials</li> </ul> </li> <li>• Waiver request includes a statement from the prime contractor and/or supplier confirming the non-availability of the domestic construction materials for which the waiver is sought</li> <li>• Has the State received other waiver requests for the materials described in this waiver request, for comparable projects?</li> </ul>		

## Appendix 2: HQ Review Checklist for Waiver Request

Instructions: To be completed by EPA. Review all waiver requests using the questions in the checklist, and mark the appropriate box as Yes, No or N/A. Marks that fall inside the shaded boxes may be grounds for denying the waiver. If none of your review markings fall into a shaded box, the waiver is eligible for approval if it indicates that one or more of the following conditions applies to the domestic product for which the waiver is sought:

1. The iron and/or steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.
2. The inclusion of iron and/or steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

Review Items	Yes	No	N/A	Comments
Cost Waiver Requests				
<ul style="list-style-type: none"> <li>• Does the waiver request include the following information? <ul style="list-style-type: none"> <li>— Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products</li> <li>— Relevant excerpts from the bid documents used by the contractors to complete the comparison</li> <li>— A sufficient number of bid documents or pricing information from domestic sources to constitute a reasonable survey of the market</li> </ul> </li> <li>• Does the Total Domestic Project exceed the Total Foreign Project Cost by more than 25%?</li> </ul>				
Availability Waiver Requests				
<ul style="list-style-type: none"> <li>• Does the waiver request include supporting documentation sufficient to show the availability, quantity, and/or quality of the iron and/or steel product for which the waiver is requested? <ul style="list-style-type: none"> <li>— Supplier information or other documentation indicating availability/delivery date for materials</li> <li>— Project schedule</li> <li>— Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of materials</li> </ul> </li> <li>• Does supporting documentation provide sufficient evidence that the contractors made a reasonable effort to locate domestic suppliers of materials, such as a description of the process for identifying suppliers and a list of contacted suppliers?</li> <li>• Based on the materials delivery/availability date indicated in the supporting documentation, will the materials be unavailable when they are needed according to the project schedule? (By item, list schedule date and domestic delivery quote date or other relevant information)</li> <li>• Is EPA aware of any other evidence indicating the non-availability of the materials for which the waiver is requested? Examples include: <ul style="list-style-type: none"> <li>— Multiple waiver requests for the materials described in this waiver request, for comparable projects in the same State</li> <li>— Multiple waiver requests for the materials described in this waiver request, for comparable projects in other States</li> <li>— Correspondence with construction trade associations indicating the non-availability of the materials</li> </ul> </li> <li>• Are the available domestic materials indicated in the bid documents of inadequate quality compared those required by the project plans, specifications, and/or permits?</li> </ul>				

### **Appendix 3: Example Loan Agreement Language**

ALL ASSISTANCE AGREEMENT MUST HAVE A CLAUSE REQUIRING COMPLIANCE WITH THE AIS REQUIREMENT. THIS IS AN EXAMPLE OF WHAT COULD BE INCLUDED IN SRF ASSISTANCE AGREEMENTS. EPA MAKES NO CLAIMS REGARDING THE LEGALITY OF THIS CLAUSE WITH RESPECT TO STATE LAW:

Comply with all federal requirements applicable to the Loan (including those imposed by the 2014 Appropriations Act and related SRF Policy Guidelines) which the Participant understands includes, among other, requirements that all of the iron and steel products used in the Project are to be produced in the United States (“American Iron and Steel Requirement”) unless (i) the Participant has requested and obtained a waiver from the Agency pertaining to the Project or (ii) the Finance Authority has otherwise advised the Participant in writing that the American Iron and Steel Requirement is not applicable to the Project.

Comply with all record keeping and reporting requirements under the Clean Water Act/Safe Drinking Water Act, including any reports required by a Federal agency or the Finance Authority such as performance indicators of program deliverables, information on costs and project progress. The Participant understands that (i) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the Clean Water Act/Safe Drinking Water Act and this Agreement may be a default hereunder that results in a repayment of the Loan in advance of the maturity of the Bonds and/or other remedial actions.

#### **Appendix 4: Sample Construction Contract Language**

ALL CONTRACTS MUST HAVE A CLAUSE REQUIRING COMPLIANCE WITH THE AIS REQUIREMENT. THIS IS AN EXAMPLE OF WHAT COULD BE INCLUDED IN ALL CONTRACTS IN PROJECTS THAT USE SRF FUNDS. EPA MAKES NO CLAIMS REGARDING THE LEGALITY OF THIS CLAUSE WITH RESPECT TO STATE OR LOCAL LAW:

The Contractor acknowledges to and for the benefit of the City of \_\_\_\_\_ (“Purchaser”) and the \_\_\_\_\_ (the “State”) that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund that have statutory requirements commonly known as “American Iron and Steel;” that requires all of the iron and steel products used in the project to be produced in the United States (“American Iron and Steel Requirement”) including iron and steel products provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

## Appendix 5: Sample Certifications

The following information is provided as a sample letter of **step** certification for AIS compliance. Documentation must be provided on company letterhead.

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Step Certification for Project (XXXXXXXXXX)

I, (company representative), certify that the (melting, bending, coating, galvanizing, cutting, etc.) process for (manufacturing or fabricating) the following products and/or materials shipped or provided for the subject project is in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. XXXX
2. XXXX
3. XXXX

Such process took place at the following location:

---

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

The following information is provided as a sample letter of certification for AIS compliance. Documentation must be provided on company letterhead.

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Certification for Project (XXXXXXXXXX)

I, (company representative), certify that the following products and/or materials shipped/provided to the subject project are in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. XXXX
2. XXXX
3. XXXX

Such process took place at the following location:

---

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative



RI Department of Labor and Training  
Division of Workforce Regulation & Safety  
Professional Regulation Unit/Prevailing Wage Section  
1511 Pontiac Avenue Building 70, P.O. Box 20247 Cranston, RI 02920-0943

Page: \_\_\_\_\_

## Rhode Island Certified Prevailing Wage Daily Log

Project Name: \_\_\_\_\_

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

Project Location: \_\_\_\_\_

Contractor: \_\_\_\_\_

Print Name	Employer	Job Title/ Classification	Time		Signature
			In	Out	

I \_\_\_\_\_ hereby certify that the information in this form is complete and correct.  
(print name and title of signatory party) Any contractor who knowingly maintains a false or fraudulent daily log may be penalized by the Department of Labor and Training up to \$500 for each calendar day of noncompliance.

\_\_\_\_\_  
Contractor/Officer's Signature

\_\_\_\_\_  
Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF WATER

**MEMORANDUM**

**SUBJECT:** Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment in the SRF Programs

**FROM:** Kiri Anderer, P.E., Acting Associate Branch Chief  
Infrastructure Branch, OGWDW

Michael Deane, Branch Chief  
State Revolving Fund Branch, OWM

**TO:** SRF Branch Chiefs  
Regions 1-10

Effective August 13, 2020, recipients and subrecipients of EPA funded assistance agreements, including borrowers under EPA funded revolving loan funds, must comply with regulations at [2 CFR 200.216](#), *Prohibition on certain telecommunication and video surveillance services or equipment*, implementing section 889 of [Public Law 115-232](#). The regulation prohibits the use of Federal funds to procure (enter into, extend, or renew contracts) or obtain equipment, systems, or services that use “covered telecommunications equipment or services” identified in the regulation as a substantial or essential component of any system, or as critical technology as part of any system. Prohibitions extend to the use of Federal funds by recipients and subrecipients to enter into a contract with an entity that “uses any equipment, system, or service that uses covered telecommunications equipment or services” as a substantial or essential component of any system, or as critical technology as part of any system. Certain equipment, systems, or services, including equipment, systems, or services produced or provided by entities subject to the prohibition are recorded in the [System for Award Management](#) exclusion list.

As described in section 889 of Public Law 115-232, covered telecommunications equipment or services includes:

- Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- Telecommunications or video surveillance services provided by such entities or using such equipment.



- Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

### **Applicability in the State Revolving Fund (SRF) Programs**

Clean Water and Drinking Water SRF (CWSRF and DWSRF) programs may not expend equivalency funds for these products on or after August 13, 2020. States must ensure that equivalency assistance agreements include the telecommunications prohibition condition [provided by EPA's Office of Grants and Debarment](#) (OGD) in OGD's most recent EPA General Terms and Conditions. The condition must also be in construction contracts associated with equivalency assistance agreements.

There is no exhaustive list of components and services that fall under the prohibition. State SRF managers and local assistance recipients should exercise due diligence and be particularly mindful of project components with internet or cellular connections. For example, recipients should be mindful of automatic meter reading (AMR) technology and advanced metering infrastructure (AMI), instrumentation control systems (e.g. process control systems, distributed control systems and programmable logic controls), and security cameras and other electronic security measures to ensure that those items are procured from a non-excluded entity. Items included in the prohibition are not eligible SRF costs, and the SRF programs cannot reimburse borrowers for these costs.

The prohibition also applies to the CWSRF administrative funds (if states are billing those costs to the federal CWSRF capitalization grant) and the four DWSRF set-asides. States should be mindful of items such as cell phones, computers, and mobile WiFi routers or hotspots funded by those accounts.

If you have questions on the implementation of this grant condition, please contact Michael Deane at [Deane.Michael@epa.gov](mailto:Deane.Michael@epa.gov) or Kiri Anderer at [Anderer.Kirsten@epa.gov](mailto:Anderer.Kirsten@epa.gov).

**DIVISION 15**

**MECHANICAL**



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 15100 COLD WATER METERS AND ABSOLUTE ENCODER REGISTERS**

---

**PART 1 GENERAL**

**1.1 WORK INCLUDED**

- A. Furnish non-displacement style cold water meters (e.g., electromagnetic, ultrasonic) of various size (5/8-inch to 2-inch) and complimentary absolute encoder registers for the future replacement of existing water meters in the City of Woonsocket distribution system.
- B. Installation of new meters and removal of existing meters is not included in this Contract.
- C. It is the City's intent that meters, encoders, and registers submitted for consideration on this project be compatible with multiple industry leading automatic meter reading (AMR) / advanced metering infrastructure (AMI) systems and infrastructure to provide the City with flexibility in future meter purchases.

**1.2 RELATED SECTIONS**

- A. Section 15200 – Advanced Metering Infrastructure (AMI) System

**1.3 REFERENCE**

- A. AWWA C707 – Encoder-Type Remote-Registration Systems for Cold-Water Meters
- B. AWWA C715 – Cold Water Meters – Electromagnetic and Ultrasonic Type
- C. NSF/ANSI 61 – Drinking Water Systems – Health Effects

**1.4 SUBMITTALS**

- A. Transmit each submittal with Engineer-accepted form.
- B. Sequentially number the transmittal forms. Re-submittals to have original number with an alphabetic suffix.
- C. Identify Project, Contractor, subcontractor or supplier, and pertinent specification section number, as appropriate.
- D. Apply Contractor's stamp, signed or initialed certifying that review, verification of products required, field dimensions, adjacent construction work, and coordination of information is in accordance with the requirements of the work and Contract Documents.
- E. Schedule submittals to expedite the Project and deliver to Engineer via email or other appropriate means as agreed upon at project start-up. Coordinate submission of related items.
- F. Identify variations from Contract Documents and product or system limitations, which may be detrimental to successful performance of the completed work.
- G. Provide space for Contractor and Engineer review stamps.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- H. Revise and resubmit submittals as required, identifying all changes made since previous submittal.

**PART 2 PRODUCTS**

**2.1 WATER METERS - GENERAL**

All meters shall be new and unused and of new construction. All meters shall be produced from an ISO 9001 manufacturing facility and shall conform to AWWA Standard C715 – Cold Water Meters – Electromagnetic and Ultrasonic Type.

- A. All cold water meters shall comply with NSF/ANSI 61, Annex G and Annex F.
1. Meters shall be “lead free”, manufactured of fiberglass-reinforce polymer, stainless steel, or waterworks bronze/brass in accordance with NSF/ANSI 61, Annex G and Annex F.
  2. Manufacturer shall provide a copy of a letter from the NSF, on NSF letterhead, documenting compliance with NSF/ANSI 61, Annex G which allows a maximum weighted average lead content level of 0.25% of the wetted surface areas.
- B. Meter battery life shall be guaranteed (with warranty provided) to a minimum of 10 years of continuous operation. A full ten-year warranty, followed by a ten-year prorated warranty, shall be provided by meter supplier for all meter electronics. There shall be no water quality conditions stipulated to meet warranty requirements.
- C. Meters shall be guaranteed for a minimum of one year on material and workmanship. Registers shall be guaranteed for a minimum of ten years from date of installation. Proposer shall indicate their meter failure rate as part of their response to this Request for Proposals.
- D. All meters shall meet or exceed the accuracy requirements specified in AWWA C715.
- A. Meter accuracy shall be +/- 3% at extended low flow range and +/- 1.5% at normal flow range.
  - B. Manufacturer shall warrant their meter meets or exceeds AWWA C715 accuracy standards and each shipment of meters must be accompanied by factory test data certifying their accuracy at the flows required by AWWA C715.
- E. Water meter registers shall read flow in units of cubic feet.
- F. The solid-state meter must feature fully-potted electronics and battery as well as carry an IP68 rating for submersion in flooded meter pits.
- G. Ultrasonic meters shall be capable of being field programmed. Measuring registration (cubic feet, Gallons, etc.) leak detection sensitivity, pipe burst sensitivity, data RF packages, and display resolution are all required fields for optional programming. Any meter that does not have the ability for optional field programming will not be considered.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**2.2 ULTRASONIC METERS**

**A. General**

1. Only meters featuring solid state metrology will be accepted because of enhanced low flow accuracy performance and extended accuracy over the life of the meter.
2. Measurement technology shall be based on ultrasonic sensing featuring no moving parts.
3. Electronics shall be warrantied for twenty (20) years. At a minimum, warranty shall provide for full replacement in the first ten (10) years of operation at no charge and replacement at prorated cost of current list price for following ten (10) years.
4. The meter provided is to be equipped with a 3.65 VDC, 1 c cell lithium battery or greater. Meter shall be capable of operating in ambient temperatures of 35° F to 140° F. Each Meter shall be constructed of IP68-Rated (Waterproof/Submersible) material, allowing water temperatures to range from 33° F to 140° F, while having the ability to inventory and store meters in a setting ranging from -10°F to 140°F.
5. The measurement technology shall use ultrasonic sensors featuring no moving parts. The meters should be designed in such a way that the sensor and electronics makes no contact with the fluid. The electronics (which includes but not be limited to PCBs, transducers, magnetic coils, LCDs, and battery), shall be warranted for twenty (20) years; ten (10) year full replacement at no charge and ten (10) prorated cost at the current list price.
6. The meter provided shall be capable of operating in a pressurized system no greater than 250 PSI.
7. All meters must be adaptable to a field programmable absolute encoder register without interruption of the customer's service.

**B. Dimensional Requirements**

1. The size, capacity, and meter lengths shall be as specified in AWWA Standard C715 (latest revision).

**C. Meter Main Case**

1. The meter main case shall be certified as lead free Fiberglass-Reinforced Polymer, 316 lead-free Stainless Steel, or Waterworks Brass.
2. The threads on the unit shall not be susceptible to cross threading and shall be able to withstand a maximum torque of eighty-foot pounds.
3. The meter shall operate accurately under maximum pressure of 250 PSI for meter sizes 5/8", 5/8"x3/4", 3/4" and 300 PSI for 1", 1.5" and 2" meter sizes.
4. The serial number shall be displayed in a permanent location on the register. Meter markings shall indicate size, model, direction of flow, and NSF 61 certification.
5. All lead-free main cases shall be guaranteed free from manufacturing defects in workmanship and material for the life of the meter (20 years). Meter supplier shall identify the meter failure rate as part of their proposal.
6. There shall be no corrosive materials used that come in contact with any mounting

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

hardware or atmosphere. The case shall have the following choices of threads: 5/8"x1/2", 5/8"x3/4", and available case that has adaptable threads for any combination of sizes of 1/2", 3/4" and 1".

**D. Meter Assembly**

1. All meters shall be assembled in a humidity-controlled atmosphere and shall be assembled by machine without the influence of human intervention, contaminants, or pollutants.
2. To ensure no moisture penetration in the register for the life of the meter, all meter components shall be vacuum-sealed within the case and shall have a desiccant added in the case to ensure zero percent humidity within the case over the life of the meter. After manufacture the measurement chamber must be sealed with an impenetrable seal to ensure a contaminate-free measuring chamber until installation.

**E. Measuring Chamber Assembly**

1. The measuring chamber shall have no moving parts. All sensors shall be completely separate of the fluid, and coatings and water quality shall not affect measurement accuracy. The pressure drop at maximum flow shall be no greater than seven and one half psi. The measurement shall operate over a range of 32-140 degrees F and shall provide the maximum and minimum ambient temperature around the meter and provide the maximum and minimum temperature of the fluid.

**F. Electronic Register**

1. The solid-state meter electronic enclosure shall be constructed of a durable engineered composite designed to last the life of the meter. The meter shall provide a fully potted wire connection for use with AMR/AMI devices.

**2.4 ABSOLUTE ENCODER REGISTERS**

**A. General**

1. Encoders shall be compatible with industry leading water meters and there shall be no restriction on the City's use of encoder of one manufacturer from meter, or metering system, of another manufacturer.

**B. Encoder Register Unit**

1. Registration
  - a. The register shall provide at least a nine-digit visual registration at the meter.
  - b. The register shall provide an eight-digit meter reading for transmission through the radio meter interface.
  - c. The dial shall have a high resolution nine-digit LCD display for meter testing.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

- d. The register shall employ a visual LCD leak detection indicator as well as provide remote leak detection through an ASCII format to the RF AMR/AMI meter interface.
  - e. The register shall provide reverse flow detection, communicated as ASCII format data to the RF AMR/AMI meter interface.
  - f. Reverse flow detection shall be calculated based on 15-minute interval consumption.
  - g. The register shall provide an indication of days of zero consumption, communicated as ASCII format data to the RF AMR/AMI meter interface.
  - h. The meter manufacturer shall guarantee that the reading obtained electronically matches the LCD odometer reading on the register.
  - i. The register should accumulate and register consumption without connecting to a receptacle or meter interface.
  - j. The register shall display flow rate information.
  - k. The register shall subtract reverse flow from the total registration.
2. Mechanical Construction
- a. The registers should be manufactured in two different versions; one for inside set application and one for pit set.
3. Inside Set Version
- a. The unit must be constructed of high-strength polycarbonate and possess a hermetic sonic weld seal. Registers for inside set applications should be oil-free designs.
  - b. The register shall be attached to the meter case by a bayonet attachment. Fastening screws or nuts shall not be required. A tamperproof seal pin shall be used to secure the register to the maincase.
  - c. The register shall be removable from the meter without disassembling the meter body and shall permit field installation and/or removal without taking the meter out of service.
  - d. Provision shall be made in the register for the use of seal wires to further secure the register.
  - e. Terminal screws must be accessible on the register for transmission wire connection to the remote receptacle or AMR system. A permanently potted wire connection shall be available for pit set meters applications.
4. Pit Set Version
- a. The unit must be constructed in a roll-sealed copper shell and glass lens assembly.
  - b. The register shall be attached to the meter case by a bayonet attachment. Fastening screws or nuts shall not be required. A tamperproof seal pin shall be used to secure the register to the maincase.
  - c. The register shall be removable from the meter without disassembling the meter body and shall permit field installation and/or removal without taking the meter out of service.
  - d. Provision shall be made in the register for the use of seal wires to further secure the register.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- e. Terminal connections must be permanently potted so that the terminal cover cannot be removed.

5. Electrical Construction

- a. The solid-state absolute encoder register shall incorporate an Application Specific Integrated Circuit (ASIC) and firmware designed to verify accurate measurement, information transmission, and data integrity.
- b. Connection shall be made to the register by three screw-type terminals sonically inserted into the register top. Access to the terminals shall be available to all models of register with the exception of a permanently potted version. A port cover shall be provided to cover the terminals after they have been wired.

6. Meter Reading Information

- a. The solid-state absolute encoder register shall provide to the reading equipment an eight-digit meter reading. An identification number of up to 10 digits shall be provided with each reading when read using a probed reading device.
- b. The solid-state absolute encoder register shall provide additional value-added information remotely when connected to a RF meter interface (i.e. detailed leak detection data, days of leak state, days of no consumption, and back flow indication). This information shall be communicated through the encoder protocol and RF meter interface to the route management software to allow the seamless integration of data into a CIS package.

C. Remote Receptacle

1. Mechanical Construction

- a. Where indicated, a remote receptacle must be provided for attachment to a pit meter lid with another unit also designed for attachment by wall mounting.
- b. The materials employed shall be corrosion resistant, resistant to ultraviolet degradation, unaffected by rain or condensation, and compatible with rugged service and long life.
- c. The pit receptacle shall be mounted in a single 1¾" hole in the pit lid while not extending more than 4½" into the pit.
- d. The pit-mounted receptacle shall be provided with a minimum length of six feet of wire connected and sealed at the receptacle without terminal exposure.
- e. The remote receptacle shall not contain a battery unless it is a RF meter interface.

**PART 3 EXECUTION (Not Used)**

END OF SECTION



**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**SECTION 15200                      ADVANCED METERING INFRASTRUCTURE (AMI) SYSTEM**

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**PART 1            GENERAL**

**1.1            WORK INCLUDED**

- A.      Furnish and install fixed network advanced metering infrastructure (AMI) system deploying radio frequency (RF) data transmission to replace Owner's existing water metering system.
- B.      Provide cloud-based hosting for meter reading and data analytics through a Software-as-a-Service (SaaS) application.
- C.      Owner is the City of Woonsocket and the City's Water Department. Customers refer to the individual customer accounts serviced by the water department.

**1.2            RELATED SECTIONS**

- A.      Section 15100 – Cold Water Meters and Absolute Encoder Registers

**1.3            REFERENCE**

- A.      AWWA C707 – Encoder-Type Remote-Registration Systems for Cold-Water Meters
- B.      AWWA C715 – Cold Water Meters – Electromagnetic and Ultrasonic Type
- C.      NSF/ANSI 61 – Drinking Water Systems – Health Effects

**1.4            SUBMITTALS**

- A.      Transmit each submittal with Engineer-accepted form.
- B.      Sequentially number the transmittal forms. Re-submittals to have original number with an alphabetic suffix.
- C.      Identify Project, Contractor, subcontractor or supplier, and pertinent specification section number, as appropriate.
- D.      Apply Contractor's stamp, signed or initialed certifying that review, verification of products required, field dimensions, adjacent construction work, and coordination of information is in accordance with the requirements of the work and Contract Documents.
- E.      Schedule submittals to expedite the Project and deliver to Engineer via email or other appropriate means as agreed upon at project start-up. Coordinate submission of related items.
- F.      Identify variations from Contract Documents and product or system limitations, which may be detrimental to successful performance of the completed work.
- G.      Provide space for Contractor and Engineer review stamps.
- H.      Revise and resubmit submittals as required, identifying all changes made since previous submittal.

**PART 2        PRODUCTS**

**2.1        AMR/AMI – SYSTEM OVERVIEW**

**A.        General**

1.        The System shall be comprised of RF meter interfaces, data collection units (DCUs), and host software. The System shall be a fixed network (permanently mounted data collectors) system but should be capable of operating as a mobile system for a transition period while City personnel are trained on the operation of the fixed network system. The system shall also allow for contingency meter reads in mobile and/or walk-by modes in addition to fixed network data transmission.
2.        The transition from walk-by to mobile to fixed network shall be seamless and allow all meter reading methods to operate together simultaneously. MIUs shall transmit messages required for both mobile AND fixed network operation on an interleaved basis, allowing both mobile AND fixed network data collection capability at the same time.
3.        The System shall provide 8-digit meter reading resolution capability for encoders using Neptune E-Coder® or Sensus UI-1203 protocol.
4.        The AMI system shall be capable of storing meter data of a minimum of 30 days of 15-minute interval meter reads and 120 days of hourly meter data.

**B.        Fixed Network Functionality**

1.        The System shall provide hourly consumption interval data, time synchronized at the host meter reading software. The host software shall provide individual account consumption interval data displayed in graphical as well as tabular format, readily accessible to Owner and water department staff to facilitate customer bill complaint resolution.
2.        The System shall provide priority alarm notification of potential leak and/or reverse flow events with user configurable email or text messages for notification to Owner and their personnel.
3.        The System shall provide the capability for a demand read initiated from the host software application. The number of demand read requests made over the lifetime of an MIU shall not impact the battery life or warranty.

**C.        Mobile AMR Functionality**

1.        When used as a mobile AMR, the System shall provide at least 90 days of hourly consumption data storage at the MIU, retrievable from mobile data collection devices. Mobile data devices shall facilitate retrieval of consumption data on a handheld, laptop, or iOS mobile device, as well as storage for later use with the host software application.
2.        The System shall provide capability of mobile retrieval of individual off-cycle (specific date) reads as stored for at least 90 days in the MIU. Mobile data devices shall facilitate retrieval of off-cycle reads for field presentment on a handheld or iOS mobile device, as well as storage for later use with the host software application.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**2.2 METER INTERFACE UNITS (MIUs)**

**A. General**

1. Meters connected to RF MIUs shall collect meter usage from an encoder meter register and shall transmit the meter reading and a unique ID number to the data collection device.
2. The MIUs must be compact electronic devices connected to the water meters. They shall interrogate the encoder register and transmit the meter reading and other information to a remote reading device. They shall be compatible with encoder registers using either Neptune ProRead/E-Coder protocol or Sensus-protocol (UI-1203). MIUs shall feature “auto detect” functionality to detect the type of encoder connected and shall not require reprogramming in the field. The same RF MIUs must be capable of being read by a walk-by handheld computer equipped with a RF receiver, a mobile system with an RF receiver mounted in a vehicle, and a fixed network data collection system. This shall allow an easy migration between the three meter reading systems without any change to the MIU devices or revisiting the site.
3. The MIU shall log at least 120 days of continuous hourly consumption data and 30 days of 15-minute interval meter data, including alarms.
4. It is the intent for MIUs to be attached to new meters furnished under this Contract but installed under a subsequent contract. The MIUs shall be manufactured in both wall and pit models. The wall MIU shall have the ability to be mounted in a basement or on the outside of a house. The pit MIU shall have the ability to be mounted in a pit or an underground vault and offer an optional through-the-pit-lid antenna. The wall and pit MIUs shall have a fully-potted, submersible design.
5. MIUs shall also be available as integrated devices in which the encoder register and RF transmitter module are integrated into a single module. The unit shall interrogate the solid-state odometer of the integrated absolute encoder register and transmit the meter reading and other information to a data collection reading device.
6. The absolute solid-state encoder register with integrated MIU shall be attached to new meters, but shall be capable of retrofitting to existing meters in the field via a bayonet mount on top of the meter maincase. The absolute solid-state encoder register with integrated MIU shall be manufactured in both inside and pit models. The inside MIU shall have a water-resistant enclosure and a permanent internal antenna. The pit MIU enclosure shall be a roll-sealed copper can and glass lens, designed to ensure a watertight seal with a permanent internal antenna and offer an optional through-the-pit-lid antenna to optimize performance in hard-to-read or fixed network applications.

**B. Physical/Mechanical Requirements**

1. **Wall Unit**
  - a. The MIU housing shall be constructed of a polycarbonate plastic compound and be capable of mounting both indoors and outdoors on a wall or pole or attached directly to the meter. The device must be water resistant and capable of exposure to spray and splash. The device must be able to withstand a 200-hour salt fog test as specified in NEMA 4 standard.
  - b. The device shall provide a location for a tamper-deterrent seal. Tampering with the device functions or connections shall not be possible without causing visible damage to the device exterior or to the seal.
  - c. The device shall be capable of operating at temperatures of -22°F to +149°F (-30°C to +65°C) with operating humidity of 0 to 100% condensing.
  - d. The circuit board and the battery will be protected by a potting material.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- e. The unit must be capable of retrofit to existing installations in the event this is required.
  - f. The MIU device must be protected against static discharge without loss of data per IEC 801-2, issue 2.
2. Pit Unit
- a. For pit or vault applications, the MIU antenna shall be designed to be installed through the industry standard 1- $\frac{3}{4}$ " hole in the pit lid with no degradation of transmission range. The MIU antenna unit will be capable of mounting to various thicknesses of pit lids from  $\frac{1}{2}$ " to 2- $\frac{1}{2}$ ".
  - b. The device shall be capable of operating at temperatures of -22°F to +149°F (-30°C to +65°C) and operating humidity of 0 to 100% condensing.
  - c. The range will not be affected when the pit is flooded.
  - d. The circuit board and the battery will be protected by a potting material.
  - e. The antenna shall be made of a metallic and polymer material to withstand traffic and shall have a dual seal connection to the MIU housing.
  - f. The MIU device must be protected against static discharge without loss of data per IEC 801-2, issue 2.
3. Integrated Unit – Inside Set
- a. The integrated MIU housing shall be constructed of a polycarbonate plastic compound and be capable of mounting indoors.
  - b. The MIU shall be designed with an internal antenna.
  - c. The device shall provide a location for a tamper-deterrent seal. Tampering with the device functions or connections shall not be possible without causing visible damage to the device exterior or to the seal.
  - d. The device shall be capable of operating at temperatures of -22°F to +149°F (-30°C to +65°C) with a humidity factor of 0 to 95%.
  - e. The encoder circuit board will be coated for moisture protection.
  - f. The radio circuit board and battery will be protected by encapsulation in a hard potting.
  - g. The unit must retrofit to existing installations.
  - h. The MIU device must be protected against static discharge without loss of data per IEC 801-2, issue 2.
4. Integrated Unit – Pit Set
- a. The MIU shall be sealed in a roll-sealed copper can and glass lens to allow for submersion in a flooded pit environment.
  - b. For pit or vault applications, the MIU shall be designed with an internal antenna.
  - c. The device shall provide a location for a tamper-deterrent seal. Tampering with the device functions or connections shall not be possible without causing visible damage to the device exterior or to the seal.
  - d. The device shall be capable of operating at temperatures of -22°F to +149°F (-30°C to +65°C) and operating humidity factor of 0 to 100% condensing.
  - e. The radio circuit board and battery will be protected by a hard potting material.
  - f. The device shall be designed for an optional remote antenna capable of being installed through the industry standard 1- $\frac{3}{4}$ " hole in the pit lid for maximum transmission range.
  - g. The optional through-the-lid antenna will be capable of mounting to various thicknesses of pit lids from  $\frac{1}{2}$ " to 2- $\frac{1}{2}$ " and various distances from meters.
  - h. The optional through-the-pit-lid antenna shall be rigid in design to withstand traffic and shall have a dual-seal connection to the MIU housing.
  - i. The MIU device must be protected against static discharge without loss of data per IEC 801-2, issue 2.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

C. Operation Specifications:

1. The MIU shall operate within FCC Part 15.247 regulations for devices operating in the 902 MHz to 928 MHz unlicensed band (unless otherwise allowed in the Contract). The output power of the devices will be governed by their conformance to these relevant FCC standards.
2. The MIU shall transmit using the frequency hopping, spread spectrum technique comprised of alternating pseudo-random frequencies within the 902 MHz to 928 MHz unlicensed band (unless otherwise allowed in the Contract).
3. The System shall not require any special licensing, including licenses from the FCC, unless otherwise allowed in the Contract. Licensing requirements, if applicable, shall be identified in the Proposer's technical proposal. Unlicensed systems shall operate in the 902 MHz to 928 MHz unlicensed band.
4. The System must be expandable at any time without getting authorization from the FCC, unless otherwise allowed in the Contract and identified in Proposer's technical proposal.
5. No wake-up tone shall be necessary.
6. No MIU programming shall be necessary for installation.
7. The MIU shall provide 8-digit reading resolution from encoded registers using either Neptune E-Coder or Sensus UI-1203 protocol in mobile as well as fixed network data collection applications, simultaneously, without need for programming.
8. The MIU shall read the encoded register at 15-minute intervals to provide accurate leak and reverse flow detection using 8-digit resolution reads.
9. The MIU shall transmit readings from the encoder that are not older than 15 minutes.
10. The MIU shall transmit the meter reading continuously at a predetermined transmission interval.
11. The MIU shall transmit fixed network messages every 7½ minutes – standard. No programming shall be necessary to activate transmission of fixed network messages.
12. The fixed network message shall include multiple meter readings for redundancy to improve read success rates.
13. The MIU shall transmit mobile messages every 14 seconds – standard. No programming shall be necessary to activate or revert to transmission of mobile messages.
14. Power shall be supplied to the MIU by a lithium battery with capacitor. The vendor shall warrant that the MIUs shall be free of manufacture and design defects for a period of twenty (20) years – the first ten (10) years from the date of shipment from factory without prorating and the second ten (10) years with prorating, as long as the MIU is working under the environmental and meter reading conditions specified.
15. The number of radio-based meter reads performed must not affect the battery life.
16. The battery life shall not be affected by outside erroneous wake-up tones (e.g., other water, gas, or electric utilities reading and therefore sending out a wake-up tone).
17. The battery shall be a fully potted component of the MIU with no external wires.
18. For reliability and meter reading integrity, unless otherwise allowed in these Specifications, the vendor shall be the sole manufacturer of the different components of the System (water meters, RF MIUs, meter reading equipment, and meter reading software) and provide a turnkey system offering to the utility.
19. In the event of a cut wire, the MIU shall not send the last good read as this can lead to mis-billing. The MIU shall transmit a trouble code in lieu of the meter reading.
20. Tamper – If wiring has been disconnected, a “non-reading” shall be provided indicating wire tamper; a reading that gives the last available reading is an incorrect reading.
21. Each device shall have unique preprogrammed identification numbers of ten (10) characters. ID numbers will be permanent and shall not be altered. Each device shall be labeled with the ID number in numeric and barcode form. The label shall also display FCC approval information, manufacturer's designation, and date of manufacture.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

22. The MIU shall transmit the encoder meter reading and a unique MIU ID number. The MIU shall interface to encoder registers using Neptune E-Coder or Sensus UI- 1203 communication protocol via a 3-conductor wire without need for special configuration to the MIU.
23. The MIU shall be mounted per the manufacturer's installation instructions.
24. The handheld reading equipment shall provide a test mode to verify proper operation of the MIU by displaying the MIU ID number and meter reading.
25. The MIU shall be capable of being received by either a handheld receiver, mobile receiver, or fixed network receiver without special configuration, programming of operation modes, or remanufacture.

## 2.3 DATA COLLECTION UNITS

### A. General

1. The System shall provide a means of communication between the MIU installed at the meter site and the host software. The City intends to operate the system as an AMI system but does require the ability to make contingency meter reads in walk-by or mobile modes. In a walk-by system, it must be a handheld computer capable of reading meters using keyed-entry, inductive encoder probing, or RF communications with an attached receiver device without the need to switch modes within the handheld. In the case of a mobile application, the data collection unit (DCU) must be a portable personal computer integrated to an RF receiver that can be installed in any vehicle. For the fixed network application, the data collection device must be an environmentally sealed control box able to adapt to various installation settings and must have the capability to receive, store, and communicate meter readings to the host software for further use and analysis.

### B. Walk-by Application

1. For Walk-By applications, the System must give user the ability to collect metering data in several ways:
  - Keyed entry.
  - Inductive probing.
  - RF communication: The handheld must connect via Bluetooth to an RF receiving device.
2. The proposed walk-by data collection system must include:
  - Handheld data collector device Bluetooth paired RF receiving device.
  - Communication cradles for charging and loading the handheld unit.
  - Probes for interrogating Neptune ProRead/E-Coder or Sensus UI 1203 protocol absolute encoders (optional).
3. Handheld Data Collector Device:
  - a. Basic Functions
    - The handheld DCU shall have the capability to collect and store meter readings at any time of the meter reading route by any of the following methods:
      - Manual use through an alphanumeric keypad.
      - Probing of water meters equipped with supported absolute encoders.
      - Via radio frequency through a Bluetooth-paired receiver.
    - The unit shall be able to obtain all types of readings on any particular route without requiring:
      - Reprogramming of the handheld computer.
      - Physical change of software contained within the unit while in the field.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- Access through special software menus contained within a given route/program.
- b. Hardware Requirements
  - Processor and Operating System - The System must support a variety of handheld data collection devices. These devices must run the latest version of Windows Mobile operating software. The handheld must operate with either a Marvell PXA320 Processor at 806 MHz or TI AM3715 Sitara ARM Cortex-A8 processor at 800 MHz.
    - I. Case
      - The unit must be able to withstand 26 drops at room temperature from four (4) feet onto plywood over concrete.
      - The handheld must meet and exceed MIL-STD 810F standard, method 516.5, procedure IV for drop tests.
      - The handheld shall be ergonomically designed to be comfortable for handheld meter reading.
    - II. Display
      - The handheld screen must be full VGA, sunlight readable 16-bit color TFT with LED backlighting. The size of the display characters must be selectable, allowing the use of larger characters that are easier to read. The screen must support a resolution of 480 by 640 pixels or 640 by 480 pixels.
      - The manufacturer's specification on the contrast ratio on the LCD display must automatically contrast adjust based on temperature, which will give clear readings in extreme temperature. There must also be a manual contrast adjustment feature which will allow the user to adjust the contrast to his or her satisfaction.
      - The display must have no degradation when exposed to storage temperatures of -40°C to +70°C (-40°F to +158°F) and operating temperatures of -30°C to + 60°C (-22°F to +140°F).
    - III. Keyboard
      - The keyboard must have independent numerical keys with adequate separation for use with a gloved hand and must have a full-on screen, customizable alphanumeric keyboard, OR full QWERTY keypad with adequate separation with a gloved hand with number pad as well as directional buttons with four programmable buttons.
    - IV. Battery
      - The battery capacity must be sufficient for a minimum of ten (10) hours of meter reading.
      - The handheld must utilize a rechargeable lithium ion battery with a capacity of 2500mAh or 5200mAh.
      - The handheld must come with a power management system designed to conserve power.
      - The handheld must come with an integrated intelligent, fast-charge capability that allows for full charge in four (4) hours.
    - V. Memory
      - The handheld data collection device must include a minimum of 128 MB of DDR SDRAM.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

- The handheld must have 512MB to 2GB of on-board non-volatile flash storage.
  - The handheld must come with a Secure Digital (SD/SDHC) card slot for additional storage expansion.
- VI. Size
- The handheld data collection device dimensions must not be larger than: L10.5" X W5.2" X H1.9"
- VII. Weight
- The unit's weight must be no more than 2.3lbs with battery installed.
- c. Environmental Characteristics - The handheld must include but not be limited to the following:
- The unit must operate in a temperature range of -30°C to +60°C (-22° F to +140° F).
  - The device shall be water-resistant, capable of unlimited exposure to spray or splash (such as rain or snow).
  - The handheld unit must be capable of being immersed in 3.3ft (1 meter) of water for 30 minutes.
  - The device must be protected against an 8kV static discharge without loss of data.
  - The unit must be resistant to various chemical products and must be sealed to keep out dust, humidity, and water.
  - The device must be shock-resistant exceeding IEC 68-2-32 method 1 (a one meter drop on concrete).
  - The unit must be CE and FCC certified.
- d. Handheld Software Requirements
- I. Basic Functions – The handheld software must be easy to use and give the meter reader control over the route in searching for accounts, tagging accounts for later action, entering related notes, and manually reading meters. The handheld software must include entry of meter readings. In addition, the handheld software shall include but shall not be limited to the following basic features:
- User customizable key assignments.
  - Allow manual or automatic entry of meter readings, ID numbers, and note codes.
  - Perform high/low test on readings.
  - Date and time stamped to each reading.
  - Identify type of reading – manual keyed, probed, or RF MIU.
  - Perform unread meter search.
  - Found meter processing for new accounts.
  - Allow forward and reverse walk order.
  - Data search capability (display, notes, and ID).
  - Auto-search for automatic reading of encoded meters.
  - Display the number of read and unread accounts on demand.
  - Enable left-to-right, right-to-left, or calculator entry of manual meter readings.
  - Capture multiple meter readings from two networked encoders.
- II. Sounds - Successful meter readings must be confirmed by an audible tone.



**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

4. Communications / Charging Equipment
  - a. Communication - Communications between the handheld and the PC software must be established using a cradle connected via Ethernet or USB. In addition, the following basic features must be included:
    - Extensive error checking is provided to ensure data integrity during communications between the handheld and the PC.
    - A typical route of 400-500 accounts can be loaded or unloaded in less than one minute with the ability to load more than 5,000 records into a single handheld unit.
    - Routes/books can be split at the PC level.
    - Once loaded, routes may be individually selected on the handheld.
  - b. Communications / Charging Cradles
    - The communications/charging cradle will be housed in a suitable material that can be wall or tabletop mounted.
    - It will have the capability of recharging the handheld unit within four hours and also provide the communication port connection to the computer.
    - The cradle will be capable of communicating with the host computer at 10 Mbps.
    - The cradle must be capable of both USB and Ethernet communications with a PC.
    - The charging units must carry the Underwriters Laboratory (UL) seal of approval.
5. Probes
  - a. The handheld must be compatible with a wireless probe capable of reading Neptune ProRead/E-Coder or Sensus UI 1203 protocol absolute encoders.
6. Radio Frequency Capability
  - a. The meter reading system must be capable of being upgraded to radio frequency communications. The City plans to read water meters equipped with radio frequency MIUs. For the radio frequency based meter reading system, the encoder registers will be connected to an RF MIU that shall provide the radio link from the meter to the handheld interface unit. MIUs shall feature “auto detect” functionality and shall not require reprogramming in the field. The handheld radio frequency receiver must be separate from the handheld unit itself.
  - b. Radio Frequency Reading Function
    - I. The function of the handheld and external receiver in radio frequency mode is to provide Owner the capability of reading meters via radio signals transmitted by the RF MIUs. The external receiver must be capable of receiving RF readings and transferring those readings to the handheld via Bluetooth connection. All transmissions from supported MIUs will be collected. The reading of any MIU shall be automatically stored in the proper account record without the intervention of the meter reader.
    - II. Should any MIU not be able to be read during the route, the software shall support storage of a flag in the account record, indicating that the MIU could not be read. When reading the meters in the RF mode, it should not require the meter reader to activate any wake-up tone.
    - III. The handheld with the external receiver reading equipment must provide a test mode to verify operation of the MIU. This test mode must be accessible from within the meter reading application as well as accessible

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

from a handheld's main screen (no login required). The test application must be capable of reporting statistics for an individual MIU or displaying all MIUs within range.

- c. Walk-by RF Transceiver
- The walk-by RF transceiver must be a separate belt clip, wearable, transmit/receive device which communicates via Bluetooth to the handheld.
  - The walk-by RF transceiver must support the ability to remotely command the MIU to transmit data log interval data.
  - The walk-by RF transceiver antenna shall be internally mounted.
  - The walk-by RF transceiver must meet FCC Class B certification.
  - The walk-by RF transceiver must contain an SD card.
  - The walk-by RF transceiver must utilize SDR (software-defined radio) technology.
  - The walk-by RF transceiver must contain a mini-USB port for both battery charging and PC communications.
  - The walk-by RF transceiver must contain a field replaceable battery.
  - The walk-by RF transceiver must have four (4) LEDs displaying the following: Battery/power status, RF status, Bluetooth status and Mode status.
  - The external RF transceiver must be capable of unattended operations where the receiver is not paired with any handheld device but hears and stores any received reading packets to the SD card. This data must be able to be imported into the host software for use as billing reads.

7. Radio Characteristics

- Receiving Frequency: 910-920 MHz unlicensed RF (unless otherwise permitted in accordance with the Contract).
- The walk-by RF transceiver must have 50 channels.
- The walk-by RF transceiver must support reading eight (8) channels simultaneously.
- The walk-by RF transceiver must be capable of processing 360 RF packets per second.
  - a. Size and Weight – Physical specifications of the external RF receiver must be within the following parameters:
    - Length: 5.75" (14.6 cm)
    - Width: 1.66" (4.22 cm)
    - Height: 3.58" (9.1 cm)
    - Weight: (with battery): 1.3 lbs., (without battery): 1.1 lbs.
  - b. Environmental Operating Conditions
    - Operating conditions: -4°F to +122°F (-20°C to +50°C)
    - Storage temperature: -40°F to +185°F (-30°C to +70°C)
    - Designed to and tested to MIL-STD-810F specifications.
    - Designed to withstand electrostatic discharges per EN61000-4-2.
  - c. RF Walk-by Receiver Battery Life - The DCU battery must provide enough power to support RF meter reading for a minimum of eight (8) hours.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

**C. Mobile Data Collection System**

1. The mobile data collection device must be a portable, compact electronic system mountable in any vehicle. It must collect the data transmitted by the MIUs and store it onto a USB flash drive to be downloaded to the host computer at the utility office. The mobile data collection device shall be easily transportable from vehicle to vehicle or from vehicle to office.
2. **Hardware Specifications**
  - a. The key components of the mobile data collection device must consist of a portable personal computer (PPC), an integrated radio receiver unit, and remote rooftop magnet mount antenna.
  - b. The mobile data collection device must be easily installed in any vehicle that will drive to the field for meter reading. It must be mounted securely in the passenger seat with a standard seat belt. The unit must have capability to be powered from multiple vehicle power supply sources (e.g., cigarette lighter, built-in USB port).
  - c. The mobile data collection device must include a magnetic base antenna and the antenna cord as well as all necessary power and communication cables.
  - d. The mobile data collection device shall draw no more than one (1) AMP of power. The mobile data collection device dimensions must be no larger than the following parameters: 11.0" x 8.0" x 3.15". The weight shall not be more than five (5) lbs.
  - e. The mobile data collection device shall support the connection to any laptop that meets the following minimum system requirements:
    - Operating System: Windows 10 Professional (32 and 64 bit).
    - Processor: Intel Pentium processor 1.7 GHz
    - Memory: 1 GB
    - Communication: Internal 802.11 b/g wireless LAN
    - USB 2.0
3. **Environmental Conditions** - The mobile data collection device must work in the following environmental conditions:
  - Operating Temperature: 32° to +122°F (0° to +50°C)
  - Storage Temperature: -40°F to +185°F (-40°C to +85°C)
  - Operating Humidity: 5 to 95% non-condensing relative humidity
4. **Mobile Data Collection Software Requirements**
  - a. **Basic Functions**
    - I. The software must be a dialog-based, intuitive, easy-to-use meter reading application.
    - II. After the meter reader starts the reading process, the software must be fully automated to collect the meter reading data received from the radio receiver unit and store it in an export file which can be used by the host software to update the mainframe route data. The System must support import/export via a USB flash drive.
    - III. The software shall be touchscreen friendly and operate on tablet devices with latest version of Windows mobile.
    - IV. The software must have an option to wirelessly synchronize meter reading routes and reading data with the host software in real-time or on-demand.
    - V. Unit must be capable of optimizing the memory storage space by filtering out duplicate readings from the same MIU and keeping only the last reading received.
    - VI. Each reading record must contain an MIU ID and a time stamp of the reading.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

- VII. The software must have the option to provide found meter processing for new accounts.
  - VIII. The software must be capable of performing high/low test on readings.
  - IX. The software must provide a progress bar that provides route reading status for individual as well as all routes combined.
  - X. The software must support retrieval and graphing of at least 90 days of data logging intervals from the MIU
  - XI. The software must contain a test mode used to validate MIU installation. The test mode must provide MIU ID reading, as well as flag status.
  - XII. The software must have an option to geocode meter reading routes by address.
  - XIII. The software must allow a manual reading to be entered into the account record.
  - XIV. The software must allow freeform notes to be entered to record conditions in the field that require noting and may require an additional work order created to address at a later date.
  - XV. The software must have a GIS mapping option powered by ESRI ArcGIS.
  - XVI. The software must have advanced filtering to allow the user to view route mapping data by conditions such as flag type/status, audit status, and read status.
  - XVII. The software must be capable of displaying meter points and read success and unread accounts via GIS mapping interface. The software must be capable of collecting the following information for the host to generate reports; leak detection, tamper detection, and backflow conditions.
  - XVIII. The software must allow for GPS location tracking of the meter reading vehicle.
  - XIX. The software must allow for GPS breadcrumb tracking of the meter reading vehicle during the route reading process.
5. Mobile Data Collection Device Performance Requirements
- a. The magnet mount antenna must be omni-directional and support a gain of 5 dB minimum. The receiver utilized must operate with a minimum sensitivity of greater than -110 dBm. The receiver module must process at minimum 72 discrete channels across a 10 MHz bandwidth utilizing a digital signal processor capable of capturing eight meter readings simultaneously from these channels. The receiver module must operate with a dynamic range of greater than or equal to 100 dB with a message success rate greater than 50%.
  - b. The mobile data collection device must be able to maintain a minimum sustained processing rate of 70 unique meter reading accounts per second.
  - c. The mobile data collection device must reject a minimum 45 dB of noise energy above the target message in adjacent channels.
  - d. The mobile data collection device must operate effectively at posted speed limits.
- D. Fixed Network Functionality
1. Basic Requirements
- a. The fixed network functionality must be able to operate in parallel with other meter reading technologies such as walk-by, handheld, and mobile systems and utilize a common interface to the CIS/billing software system. The fixed network functionality must also support the migration of technologies (example: handheld to mobile, mobile to fixed network).
  - b. The fixed network functionality is comprised of two major components; data collection software and fixed network data collection units.
  - c. The fixed network functionality must be capable of automatically retrieving consumption information from the same MIUs being read by walk-by and mobile data collection devices to manage customer account and meter reading information,

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

to provide usage analysis information, and to provide a flexible host interface to utility's CIS system.

- d. The fixed network functionality must be capable of retrieving consumption information from MIUs via walk-by, mobile drive-by, and fixed network data collection without the need for mode changes or reprogramming.
  - e. The host software must be capable of storing meter readings with the capability to store up to 96 readings per day per meter. The host software must also provide meter reading management reports, usage analysis reports (flow profiling, leak detection, tamper detection, and reverse flow conditions), off-cycle reads, and system management diagnostics. Host software must also provide comprehensive coverage for all selected strategic commercial and industrial customers, including indoor, outside, and in pits/vaults, utilizing a single or hybrid technology solution. The network architecture should provide scalability and adequate bandwidth to provide hourly reading requirements.
  - f. The WAN architecture must be flexible to allow communications via common public communication networks such as CDMA and GSM cellular systems.
  - g. The fixed network functionality must utilize an unlicensed radio frequency band for LAN communications (unless otherwise permitted in the Contract).
  - h. Network management tools must be available to properly monitor the performance of the system to ensure reliable data delivery to utility for all billing and/or other customer service applications.
  - i. Both the fixed network WAN and host software shall remain the property of utility.
2. Hardware Requirements
- a. Fixed network data collection must support flexible installation configurations for rooftop, pole, and wall installations.
  - b. The fixed network data collection units must utilize a 50-channel, software-defined radio (SDR) capable of processing up to 360 readings per second and eight (8) readings simultaneously. The fixed network data collector must support a web service connection to the host software.
  - c. The fixed network data collection units must provide USB flash drive data retrieval in the event of a backhaul outage. All data stored to the USB flash drive must be encrypted via AES128.
  - d. The fixed network collector shall utilize an SD card for flash memory storage.
  - e. The fixed network shall encrypt all stored reading files via AES128.
  - f. The fixed network data collection units with AC power must have an uninterruptible power supply (UPS) capable of powering the data collector for eight (8) hours in the event of a power outage.
  - g. The fixed network data collection units must support the following backhaul options:
    - EVDO Rev A (CDMA)
    - 1xEVDO Rev 0 (CDMA)
    - 1xRTT (CDMA)
    - UMTS/HSPA (GSM)
    - EDGE/GPRS (GSM)
    - Ethernet
  - h. The data collection units shall consist of the following:
    - NEMA 4X enclosure
    - 100-140V power supply with UPS or solar cell with battery backup
    - LAN: Receiver shall support unlicensed communication protocol from MIUs and comply with FCC part 15.247
    - WAN: Multi-carrier cellular modem or Ethernet
  - i. Must be able to provide a minimum daily meter reading resolution.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- j. The data collection unit must meet the following environmental operating requirements:
- Temperature range: -20° F to +140° F (-30° C to +60° C)
  - Humidity: 0 to 95% non-condensing inside enclosure

**2.4 MOBILE APPLICATION REQUIREMENTS**

**A. Basic Requirements**

1. Woonsocket Water Department staff use iPhones for mobile communication and data transfer. The AMI system shall have a mobile application (app) compatible with iOS mobile phones (iPhone) and tablets that enables retrieval of data logging and off-cycle read data as well as test functionality to validate MIU installations. The app shall be compatible with the latest version of iOS software, current as of January 1, 2018.
2. The app shall support graphing of retrieved data log intervals with views supporting a week at a time, month at a time, and a day at a time (hourly intervals).
3. The app shall support sharing data log reports and graphs with the homeowner or end consumer via e-mail from the iOS phone or tablet.
4. The app shall provide a test function to validate MIU reception and also to obtain readings and flag status notifications.
5. The app shall provide a security key to prevent personnel not associated with Owner from installing the application.

**2.5 METER READING SOFTWARE (HOST SOFTWARE) FOR MOBILE AND WALK-BY METER READING**

- A. The host software must be meter reading software that will transfer files between the utility billing/CIS system and the data collection devices. The utility will provide the transfer file to the vendor's file format provided it is a standard ASCII format. The host software must be configurable for either a standalone installation or operate in a Windows Client/ Server environment.

**B. Basic Functions**

1. The software must provide easy management of the meter reading data. After the readings are collected, they must be unloaded to the PC for review and reporting and exported to a file to be sent to the utility billing/CIS system. New meter reading routes must then be imported into the database from utility billing / CIS system and prepared for loading into the handheld.
2. The meter reading software shall manage the routes that are loaded into the data collection device and be able to split them into multiple routes if necessary.
3. The meter reading software must include the following:
  - The host software must support the display of data logger information retrieved from the handheld or mobile drive by device.
  - The host software must support viewing a minimum of 90 days of hourly consumption in a graphical and tabular format.
  - The host software must support read request and read assignment request for off-cycle reads.
  - Must be able to load/unload from the handheld's USB or by Ethernet communications.
  - Allow PC operator to review and edit any account in the meter reading database.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

- Generate route and activity reports defined by the user.
  - Provide integrated database backup/restore functions.
  - Allow user to merge several separate files into one database.
  - Enable the user to set up and save custom report formats.
  - Enable the user to specify the data to be exported from the database for transferring to the billing system.
  - Allow for database records to be automatically deleted during the export process.
  - Enable the user to search the database for records matching specified information.
  - Allow the user to define up to 100 notes.
4. Typical Read Cycle- In a typical read cycle, the host software must allow the following operations:
- Merge routes into the existing database for loading onto a data collection device.
  - Select routes to be read, split routes, and assign routes to a data collection device.
  - Generate the route file and load it onto the data collection device or flash drive.
  - Unload routes from the data collection device.
  - Post readings from the data collection device onto appropriate accounts within the database.
  - Make a backup copy of the routes within the database (including current system configuration files).
  - Print preselected reports.
  - Export routes out of the database to be sent back to the utility billing system.
5. Reports - Standard reports must include:
- All Leak – Summarizes data relating to high resolution solid state absolute encoder-equipped meters that show a continuous or intermittent leak.
  - Coded Notes – Summarizes data relating to any predefined notes associated with a meter. The coded notes represent any issues found at a specific meter that a meter reader is required to report during the route reading and work order process. The note codes are customizable to meet the needs of the utility.
  - Continuous Leak – Prioritizes the number of days a continuous leak was detected within the last 35 days reported by high resolution solid state absolute encoder-equipped meters.
  - High Resolution Solid State Absolute Encoder – Summarizes data relating to the high resolution solid state absolute encoder-equipped meters within the last 35 days. Displayed within the report are consecutive days of no consumption, reverse flow detected at the meter, number of days a leak was detected, and the current status of the leak.
  - Found Meters – Displays meters located by field technicians but not displaying within the route.
  - Free Form Notes – Displays personalized notes entered by the meter reader for a specific meter.
  - Hi/Lo Fail – Summarizes all meters that exceeded the preset limits allowed for the reading on a specific meter. The preset limits are defined within the CIS.
  - Invalid Readings or IDs – Lists readings that were taken but are incorrect or invalid. A non-numeric character or characters within the meter reading represents an invalid reading.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

- Major Reverse Flow Event – Lists the meter information relating to high resolution solid state absolute encoder-equipped meters that show a major reverse flow event occurring.
- Meter ID Compare – Displays account information in which a meter reader forced a specific ID and reading to an account because it did not match information sent over from the CIS file.
- Meters with No Readings – Summarizes data relating to meters in which readings or skip codes were not obtained.
- Meters with Readings – Summarizes data relating to all meters for which readings were obtained.
- Meters with Readings or Notes – Summarizes meters that have readings but also have a code present on a specific meter.
- Non-Billable Reads – Lists the readings that were taken but are incorrect or invalid. A non-numeric character or characters within the meter reading represents an invalid read.
- Walk Order and Productivity – Lists readings statistics for a particular reader. This report shows the route, date, and time the route was read, total number of readings collected, starting and ending times for each route, as well as the minimum, maximum, and average elapsed time.
- Zero Consumption – Prioritizes by severity the number of consecutive days of no consumption detected by an MIU and register within the last 35 days.
- Skip Codes – Summarizes data relating to meters for which readings were attempted but unable to be obtained. The skip codes that are available on the handheld are defined by the host system operator.
- Trouble Codes – Summarizes data relating to any issues reported at the meter with a reading still received at the meter. The trouble codes available on the handheld are defined by the host system operator.
- Productivity Report – Displays the information for the reader, along with the time elapsed between readings.
- Route Assignments – Allows users to view which routes are currently assigned. This report also contains information on the scheduled date and sequence of the route.
- Route Detail – Displays specific route information for all available routes. This report is an overview of all routes which shows detailed information on how the route was read, all readings received within the route, the date and time meters were read, and any codes received on specific meters.
- Data Logger – Displays daily or hourly consumption in a bar or line format reported by a data logger attached to an MIU.
- Handheld List – Lists the handheld IDs set up within the software.
- General Log – Tool used primarily by support personnel to troubleshoot customer concerns and issues regarding the software.
- Import Log – Displays all of the import activity generated within the database.
- Review Reading Log – Displays all changes made within the Review Readings module of the software.
- System Errors Log – Displays the date and time of any errors reported during any processes within the database. This report is considered a troubleshooting tool.

6. Special Reports

- a. Special reports must provide meter reader productivity information. The reporting module must also be a detailed productivity report that will list total number of readings for a specific meter reader and book as well as the time



**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

elapsed between each read entered. Also available must be a summary of start time, stop time, elapsed time, mean, maximum, and minimum read times.

7. Security

- a. The host software shall provide a method for multiple levels of user login access into the software application.
- b. The host software shall support active directory login processes.
- c. The host software shall provide a method of database encryption.

8. Additional Host Features and Functionality

- a. The host software shall provide a method to provide a last recent read.
- b. The host software shall support migration to fixed network without the need to implement a separate software package.
- c. The host software shall provide a method to view collector status in the event of power failure or other catastrophic event.
- d. The host software shall provide a method to work in unattended operations.
- e. The host software shall provide a method to auto-update or notify the users of an update when available for installation.

9. System Requirements

- a. The host software shall be installed in a client/server or client only environment. The following server and PC requirements shall be available at the utility for access to the host application:

i. Server Requirements

- Operating System – Windows Server 2012 Standard or later.
- Processor – Intel Premium 4 3.0-GHz or compatible processor, or faster depending on the system configuration
- Memory – 4 GB RAM network adapter for networking – network adapter appropriate for the type of local-area, wide-area, wireless, or home network to which it will be connected, and access to an appropriate network infrastructure; access to third-party networks may require additional charges
- Monitor – video graphics adapter capable of 256 colors and 1024 x 768 pixels
- Keyboard/mouse – keyboard and a Microsoft mouse or other compatible pointing device
- Hard disk drive
- 10GB available hard disk space
- USB port – one required for USB flash drive
- CD-ROM drive – 24X minimum CD-ROM
- RAID

ii. Single PC Requirements

- Operating Windows – Windows 10 Professional (64 and 32 bit)
- Processor – Intel Pentium 4 3.0-GHz processor or faster
- Memory minimum – 2-GB RAM. Higher recommended depending on system configuration
- Monitor - video adapter and monitor with super VGA (1024 X 768) or higher resolution
- Hard disk drive – minimum 5 GB of available space on the hard disk
- CD-ROM drive – 24X minimum CD-ROM

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

- Network card – used to connect to the Trimble Nomad, CE5320X, CE5320B, and CE8640X devices
- Keyboard/mouse – keyboard and Microsoft mouse or other compatible pointing device
- USB port – One required for USB flash drive
- USB flash drive must be installed if MRX920™

**C. Meter Reading (Host Software) for Fixed Network Solutions**

1. The host software shall be designed to support key departments within the utility organization (Customer Service, Billing, Operations) by providing data in user-friendly functional specific screens as well as reports to help utility personnel manage their day-to-day operations. The host software shall provide users with an intuitive dashboard with key performance indicators (“KPIs”) for easy system monitoring and control, monthly, daily, and hourly customer usage graphs, enhanced reporting, priority alarms, and mapping functionality.
2. Basic Features and Functions
  - a. The host software is a thin-client application where the database resides on a server hosted by Owner or hosted by vendor.
  - b. The host software shall have the basic capability of supplying the following features to the end user:
    - Employ thin-client (browser-based) architecture wherein the database is centralized and the host application requires no local install, but is instead accessible through typical internet browser programs.
    - The host software shall interface with the utility’s CIS for off-cycle meter reading.
    - The host software shall interface with the utility’s CIS for off-cycle meter reading.
    - The host software shall interface with third-party applications such as work order systems via a standard interface such as web services.
    - The host software shall provide reading performance reports and advanced usage analysis capabilities such as District Meter Analysis.
    - The host software shall provide KPIs to allow for proactive monitoring of system health and performance.
    - The host software shall provide automated alert configuration capability to send information directly to key utility personnel (via email or SMS) based on pre-defined triggers and thresholds.
    - The host software must be able to export data to Microsoft Excel and Word applications.
    - The host software must be designed to hold two years of history for direct access, with an option for secondary direct access storage and reporting of older consumption history.
    - The host software shall provide an export of key data for third-party meter data management or customer web presentment.
    - The host software shall provide specialized customer service screens for support of utility customers by customer service representatives.
    - The host software shall include a GIS mapping module for visual analysis of AMI data throughout the service area.
    - The host software shall have the basic capability of providing monthly, daily, and hourly consumption and event information in a tabular and graphical format to assist with customer billing disputes and improved customer service.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

3. System Requirements

- a. The host software must provide all the control needed in the network and provide for the essential functions of network management, meter communications, reporting, database configuration, and alarms monitoring. It shall comply with prevailing industry standards and should run on a Windows compatible PC.
- b. The following server specifications are required for on-site deployment of the host software:

Operating System	Server 2008 R2, Server 2012
Processor	2x Xeon E5-26xx or higher
Ram	32 GB
Hard Drive Size (Total)	3 TB
OS (Partitioned)	100 GB
Hard Drive Type	Raid 5 (Raid 10 preferred) 10K RPM drives or SSD
Network Adapter	Yes - Gigabit
Power Supply	Redundant
DVD Rom drive	Yes

- c. The minimum hardware requirements for the host software PC specifications include:
  - Windows 10 Professional 64/32 bit
  - Intel Core 2 Duo 2-gigahertz (GHz) processor or faster
  - 4 gigabytes (GB) of RAM
  - At least 1.5 gigabytes (GB) of available space on the hard disk
  - Keyboard and a Microsoft mouse or some other compatible pointing device
  - Minimum of one USB port
  - Video adapter and monitor with Super VGA (exceeding 1024 X 768)
  - Network adapter appropriate for the type of local-area, wide-area, wireless or home network being used and access to an appropriate network infrastructure; access to third-party networks may require additional charges
  - Broadband Internet connection (1.5Mbps minimum)
  - Support major industry leading web browsers

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

4. Reporting
- a. The host software application shall incorporate SAP's Business Objects Platform to provide viewing of reports as well as report customization, scheduling, filtering, and modification.
  - b. The host software must provide normal reporting and exception reporting capabilities that must address basic operational requirements:
    - The host software must have the ability to identify three types of reading information to include: numeric reads (successful reads that can be used for billing), non-numeric reads (reads that cannot be used for billing but may indicate a problem with the meter register or MIU or tamper condition), and no readings (no transmitted reading was received).
    - The host software must allow the user to review total number and percentage of successful reads, unsuccessful reads, and no reads.
    - Network Level Reports – must identify by day or date range a summary of the total number and percentage of successful reads, unsuccessful reads, and no readings.
  - c. Standard reporting to include the following information:
    - i. Premise Level Reports
      - Account List – lists all premises that have account records within the database.
      - Account Reads – lists all readings received for a selected MIU.
      - Billing List – lists the latest readings for MIUs in the System that will be sent if a billing file is created (has a premise record).
      - Last Read – lists the last read received for all MIUs within the System (premise and not premise reads).
      - Soft Disconnect – lists all MIUs that have been flagged within the System for soft disconnect.
      - Soft Disconnect w/Usage – list all MIUs that have been flagged for soft disconnect in which usage has been reported.
    - ii. Endpoint Level Reports
      - All Readings – lists all MIUs that have received readings within the System for a selected date range.
      - Found Meters – lists all MIUs that have not been associated with a premise within the System.
      - Hourly Reads – lists the hourly readings for a selected MIU for a specified reading date.
      - Missed Reads – lists all MIUs that have not received a reading for a specified read date.
      - MIU Reads – lists all readings for selected MIU within a specified timeframe.
      - Non-Billable – lists all MIUs with non-numeric characters within the reading.
      - Not Active – lists all accounts within the System that are flagged as inactive.

**CITY OF WOONSOCKET**  
**WATER METERS AND FIXED NETWORK AMI SYSTEM**

- iii. Event Level Reports
  - Leak – lists all leak events that have occurred within the System (continuous and intermittent).
  - No Flow – lists all MIUs that have reported zero consumption within a selected time frame.
  - Leak Spy – distribution leak report.
  - Reverse Flow – lists all reverse flow events that have occurred within the System (major and minor).
  - Tamper – lists all accounts for which specific tamper events have been configured within a specified time frame (reverse flow, no flow, disconnect with flow, and cut wire).
- iv. System Level Reports
  - District Metering Daily – daily consumption comparison of billed versus pumped water.
  - District Metering Hourly – hourly consumption comparison of billed versus pumped water.
  - Consumption – total consumption for accounts within a specified group.
  - Troubleshooting – lists all MIUs that have never received a reading, are non-billable, or past due.
- v. System Status Reports
  - Audit – lists user modification to the System where data updates have been made for a selected MIU for a specific date range.
  - Priority Alert Log – lists all accounts that have reported a priority alarm alert within a specified date range.
  - Status Log – displays the overall status (in percentage) of all MIUs with the System.

5. Security

- a. The System shall contain multi-level security login access for Owner.
- b. The System shall require each user to have a user ID and password in order to access the application.
- c. The System shall provide a method for a user to retrieve his/her password in the event the password is not available.

2.6 DATA REPOSITORY AND CUSTOMER WEB PORTAL

- A. The fixed network software suite shall include a data repository and consumer web portal option, consisting of a cloud-based data management and analytics package that provides long-term data storage, web presentment for Owner and consumers, and advanced consumption analysis and reporting. The application shall have the basic capability of supplying the following features to the customer.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**B. Utility Customer Web Presentment**

1. The System must provide at a minimum hourly time-synchronized data to both utility users and utility customers.
2. The System shall provide a method for utility's customers to view their own consumption information through a customer web portal.
3. The System must provide the ability for utility's customers to view and manage multiple meters and/or multiple accounts.
4. The System shall provide a method to ensure complete integration into utility's existing website to establish a consistent look and feel (header, footer, color, etc).
5. The System must provide a method for utility's customers to set water budgets and a method to alert them in the event they exceed their budget.
6. The System must be able to provide 15-minute interval leak and reverse flow monitoring and alerts via email to utility's customers. These alerts can be generated by the endpoints themselves, or, if an endpoint option is not available, by the data repository system.
7. The utility's customers shall be able to configure their System to receive alerts and configure the timeframe at which alerts are sent.
8. The System shall provide a method of displaying and utilizing temperature and precipitation data synchronized with the consumption data in the system for data analysis purposes. This information shall also be made available to utility's customers.
9. The System shall be able to display synthesized data to the customer.
10. The System shall enable users to display consumption information in both graphical and tabular formats.
11. The System shall provide a method to allow utility's customers to compare their consumption against utility-created, predefined groups.
12. The System shall allow utility's customers to set multi-level communications for leak, reverse flow, and consumption alerts.
13. The System shall provide a method to export data in Adobe PDF and MS Excel formats.
14. The application shall provide daily water budget analysis.
15. The vendor must be able to promptly demonstrate all required and offered features of the utility customer web presentment via live onsite or remote use of the actual system if requested.

**C. Utility Data Repository**

1. The System must be able to store up to ten (10) years of AMI data for immediate real-time access and must provide this data within the data repository, reporting, and customer web presentment environments.
2. The System shall be able to display data graphically and in tabular form to both utility's users and customers.
3. The System must be able to export data in Adobe PDF and MS Excel formats.
4. The data repository and web presentment application should not impact the performance of the operational AMI data collection system.
5. The data repository shall have a facility to provide custom reporting and data analysis.
6. The System must provide a method for the utility to load customized reports without vendor assistance.
7. The System shall provide a method of performing District Metered Area (DMA) analysis.
8. The System shall be able to support network meters, deduct meters, and compound meters.
9. The System shall be able to store additional forms of data other than consumption data for long-term reporting and analysis purposes.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

10. The vendor must be able to promptly demonstrate all required and offered features of the utility data repository via live onsite or remote use of the actual system if requested.
11. The application shall provide consumption analysis of daily, monthly, and yearly data.
12. The application shall track weather data such as precipitation and temperature as it corresponds to the consumption data.
13. The application shall provide alarm notification for events such as leaks and reverse flow events for water utility customers.
14. The System shall provide a consumer web portal for utility customers to view consumption data and configure leak and/or reverse flow alerts.
15. The application's web portal shall contain a customer self-enrollment process.
16. The application shall be able to allow the customer the ability to configure consumption thresholds based on daily water budget values and receive alerts when that consumption has been exceeded.
17. The application shall be able to deliver alerts via email.
18. The application shall provide a list of standard reports.
19. To address final reads, the System must support the ability to capture a midnight read from the database without the need to manually capture an on-demand reading of the MIU. This feature preserves battery life and reduces special handling.

**2.7 TRAINING AND SUPPORT**

- A. An approved, detailed training plan must be developed by Proposer with approval by Owner based on results of pre-implementation meetings. The following are items to be determined during these meetings:
  1. Identify the training personnel and the Owner's employees to be trained.
  2. Identify training schedules for hardware, software, and total system products. Training shall include hands-on training in addition to classroom training.
  3. Define acceptance criteria for system deployment.
- B. The vendor shall be responsible for fully training Owner personnel in the system mapping, deployment planning, and installation of the fixed network LAN and WAN components.

**2.8 SUPPORT SERVICES**

- A. Proposer shall have a customer support department. The customer support department is required to maintain a telephone help desk and must have the capability of continuing the support through the use of a service agreement. A list of required services to be provided by the help desk includes but is not limited to the following:
  1. Answer and resolve hardware/operation/maintenance questions and problems.
  2. Answer and resolve software operation questions and problems.
  3. Evaluate information for updates or revisions.
  4. Evaluate personnel for training needs.
  5. Perform additional on-site training or evaluation as needed.
- B. The help desk must be available weekdays between 8:00 a.m. and 6:00 p.m. EST with after-hours numbers available as needed for 24/7 access.

**CITY OF WOONSOCKET  
WATER METERS AND FIXED NETWORK AMI SYSTEM**

**2.9 INSTALLATION AND TRAINING**

- A. Complete installation and operating instructions will be included for all of the supplied hardware and software equipment. The training must be supplied by the System manufacturer or approved VAR. Proposal must include any additional costs for training and assistance to install and begin operation of the System. The vendor will also inform the customer of what pre-installation activities are to be completed and what support material will be needed for the initial installation.

**2.10 PERFORMANCE WARRANTIES**

- A. In evaluating Proposals, warranty coverage will be considered. The vendor shall be required to state its warranty and/or guarantee policy in writing with respect to each item of proposed equipment. The procedure for submitting warranty claims must also be provided.
- B. As a minimum, the electronics shall be warranted for one (1) year from date of shipment for defects in material and workmanship.

**2.11 SYSTEM MAINTENANCE SUPPORT**

- A. In addition to warranty periods, vendors are required to supply information on required or optional maintenance programs beyond the warranty period for both hardware and software.
- B. Vendor must offer multiple-year maintenance contracts so Owner can take advantage of multi-year discounts.
- C. The location of and procedures for obtaining such support shall be stated. A toll-free help desk number must be provided for system support.

**2.12 VENDOR QUALIFICATIONS**

- A. Proposer's experience with meter reading systems will be an evaluation criteria when evaluating Proposals. The selected vendor shall be thoroughly versed in encoder meter and RF AMR/AMI technology and be a major supplier in the marketplace. The proposed System shall be manufactured and maintained by the selected vendor or an equity partner.
- B. All vendors shall document which water meter manufacturers and models with which they are capable of interrogating with the proposed meter reading equipment. References shall be provided with Proposal.

**PART 3 EXECUTION (Not Used)**

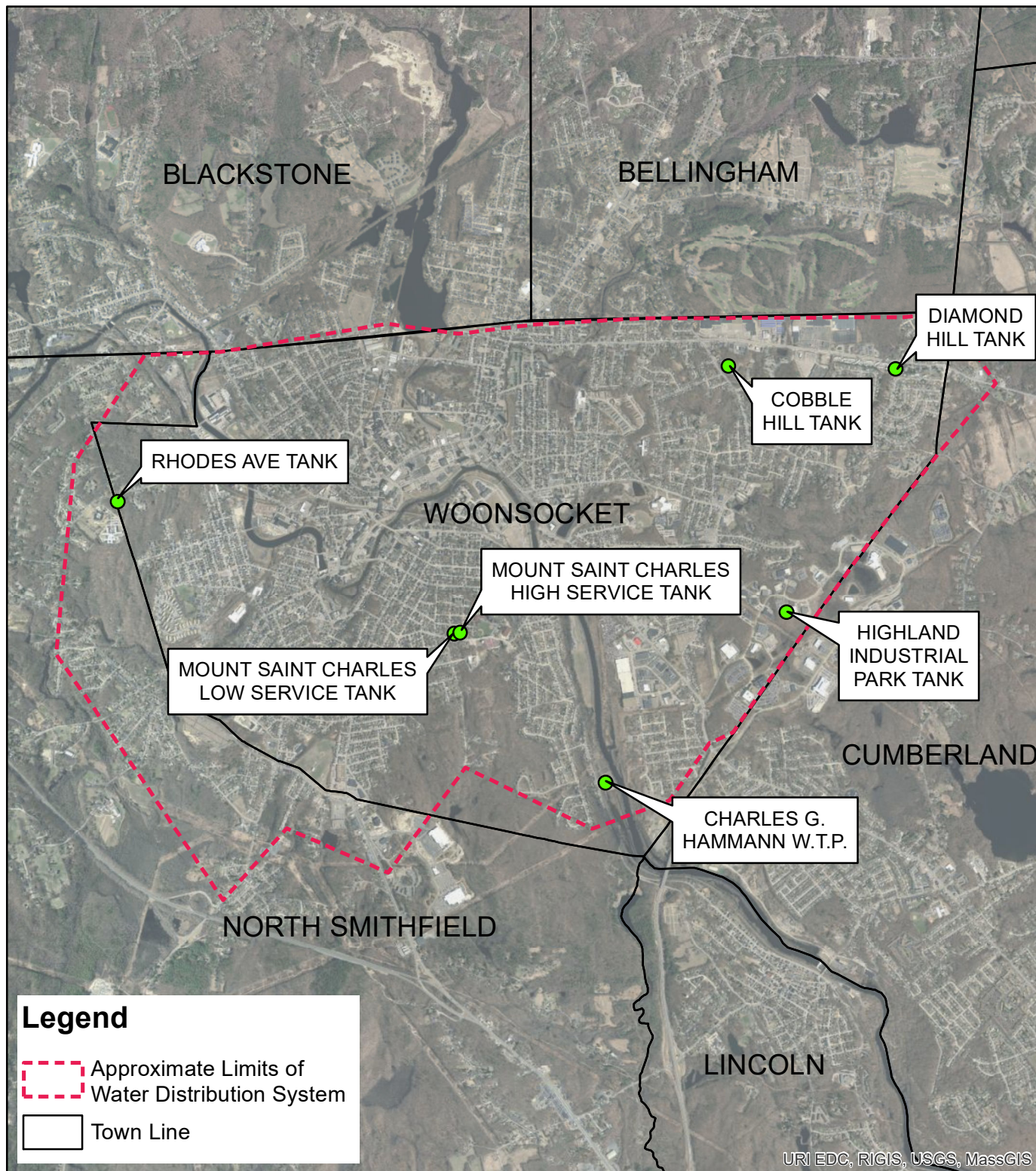
END OF SECTION



## **APPENDIX A**

### **Woonsocket Water Distribution System Map and Customer Addresses**





## Legend

Approximate Limits of Water Distribution System

Town Line



## LOCATION MAP

SCALE: 1"=3,750'



8 BLACKSTONE VALLEY PLACE  
LINCOLN, RI 02865  
(401) 334-4100

10 LINCOLN ROAD, SUITE 210  
FOXBORO, MA 02035  
(508) 543-1755

PARE PROJECT No. 15028.01

FEBRUARY 2018

## DISTRIBUTION SYSTEM

WOONSOCKET, RI

*Customer addresses are provided as an Excel file (compact disc or by email)  
for use in Proposer's Propagation Study*

## **APPENDIX B**

### **Excerpts from Woonsocket City Code and City Charter**



## ARTICLE II. WATER

(State law references--Water supply, G.L. 1956, Sec. 39-15-1 et seq.; waters and navigation, G.L. 1956, Sec. 46-1-1 et seq.; water pollution, G.L. 1956, Sec. 46-12-1 et seq.; public drinking water supply, G.L. 1956, Sec. 46-13-1 et seq.; contamination of drinking water, G.L. 1956, Sec. 46-14-1 et seq.)

### **Sec. 18-12. Rates, rules and regulations of waterworks division.**

(a) The director of public works of the city is hereby authorized to prepare rates, rules and regulations for the waterworks division of the public works department for the purpose of standardizing service, maintenance and repairs, extensions and renewals, capital improvements, so as to make service uniform for water consumers.

(b) Such rates, rules and regulations of the waterworks division are made a part hereof by reference, marked "Exhibit A" and have the force and effect of an ordinance.

The provisions embodied in such "Exhibit A" shall become effective on the dates set forth in such exhibit.

(c) There shall be a backflow prevention device, as approved by the director of public works, installed on all new water service lines two (2) inches in size and over. Said city-approved device shall be installed and maintained by the property owner at no cost to the city. Once installed, the device shall be inspected and repaired once a year by a certified backflow preventor serviceman at the owner's expense. It shall be incumbent upon the property owner to furnish a copy of the annual inspection/repair report of the backflow device to the director of public works. The present list of suggested manufacturers of backflow prevention devices shall be Hersy, Watts, Febco and Neptune.

(d) All contractors installing water lines and/or mains into and through city parks and other publicly owned property and buildings are hereby required to have all underground pipes, connections, meters, and related equipment inspected and approved by a representative of the director of the department of public works prior to backfilling. Failure to do so will result in the contractor being required to excavate, at the contractor's expense, all covered lines and elements to ensure approval and adherence to department installation requirements.

(Ch. No. 1431, Secs. 1, 2, 1-18-60; Ch. No. 5111, Sec. 1, 5-1-89; Ch. No. 6138, Sec. 1, 9-18-95)

Editor's note--"Exhibit A" is on file, in pamphlet form, in the office of the city clerk.

Section 1 of Ch. No. 5457, adopted July 1, 1991, stated that "Payment terms for all water bills shall be revised to read due thirty (30) days after date of billing."

### **Sec. 18-13. Water meters and water meter repair parts.**



(a) It is hereby declared to be for the best interests of the city that water meters and water meter repair parts be standardized.

(b) The director of public works is hereby empowered to determine and select the make and type of water meters and water meter repair parts so to be standardized.

(c) The purchasing agent of the city is hereby authorized and empowered to order and purchase such standardized water meters and water meter repair parts without the requirement of competitive bidding.

(d) This section is hereby declared to be an exception to section 3, chapter VIII of the Home Rule Charter which provides that all purchases made on behalf of the city shall be by competitive bidding but with such exceptions as may be provided for by ordinance.

(Ch. No. 1004, Secs. 1--4, 12-16-53)

#### **Sec. 18-14. Director of public works to advise council of certain water connections.**

The director of public works shall advise the city council, in writing, prior to any new customer being added to the Woonsocket Water System and when it is anticipated that such new water system will utilize in excess of twenty-five thousand (25,000) gallons of water per day (average daily demand).

(Ch. No. 5150, Sec. 1, 7-3-89)

Editor's note--Ch. No. 5150, adopted July 3, 1989, did not specifically amend this Code; hence, inclusion of Sec. 1 as Sec. 18-4 was at the discretion of the editor.

#### **Sec. 18-15. Termination of water service for nonpayment of charges.**

(a) The city council authorizes the city treasurer to terminate water supply service on any account for the nonpayment of all sewer user fees, charges and assessments due to the user charge collection fund, after a minimum period of ten (10) days from the date payment was due, and to conduct these water shutoffs by providing notice and termination of service in accordance with the rules and regulations governing the termination of water services as issued by the State of Rhode Island's Division of Public Utilities and Carriers (PUC).

(b) In addition to the principal and interest amounts that remain due, the city shall also collect a termination fee of fifteen dollars (\$15.00) together with a fifteen dollar (\$15.00) fee for the restoration of water service prior to the restoration of service.

(c) When water service is to be discontinued to a residence occupied by a tenant, the tenant may, after paying the fees, charges and assessments in order to restore or prevent termination of service, deduct the amount due from the rent due the landlord. The tenant shall provide the landlord with a copy of the receipt from the city when making a deduction from the rent.

(Ch. No. 5672, Secs. 1--3, 11-2-92)

Editor's note--Ch. No. 5672, adopted Nov. 2, 1992, did not specifically amend this Code; hence, inclusion of Secs. 1--3 as Sec. 18-15 was at the discretion of the editor.

## Chapter VIII - PURCHASING

### Sec. 1. Position of agent established; appointment.

There shall be in the finance department a purchasing agent who shall be appointed or designated by the finance director.

### Sec. 2. Duties of agent generally.

Except as provided in Chapter XIV, Department of Education, of this charter, the purchasing agent, in relation to purchasing, shall have authority and shall be required:

- (a) To purchase or contract for all supplies, materials and equipment required by any office, department or agency.
- (b) To establish and enforce specifications with respect to supplies, materials and equipment required by the city.
- (c) To be responsible for the inspection of deliveries of supplies, materials and equipment and to determine their quality, quantity and conformance with specifications and to have authority where personal inspection is not feasible to delegate said responsibility.
- (d) To transfer to or between offices, departments or agencies surplus, obsolete or unused supplies, materials and equipment and to sell any city property other than real estate as may be authorized by the council.
- (e) To be responsible for the storage and distribution of all supplies, materials and equipment used by any office, department or agency and to have charge of any general store rooms and warehouses of the city.  
(Election of 4-1-69; election of 5-24-77)

### Sec. 3. Bidding required generally.

Before any purchase of or contract for supplies, materials, equipment, service or labor is made on behalf of the city, opportunity shall be given for competitive bidding under such rules and regulations and with such exceptions as may be provided by ordinance, or by the provisions of this charter.

### Sec. 4. Purchases not exceeding two thousand dollars.

The purchasing agent shall have authority to make purchases on behalf of the city in an amount not exceeding two thousand dollars (\$2,000.00) at the best price obtainable.  
(Election of 11-6-01)

### Sec. 5. Purchases from two thousand dollars to five thousand dollars.

Any purchase in excess of two thousand dollars (\$2,000.00), but not more than five thousand dollars (\$5,000.00) shall be by specification and written bids, and wherever possible, at least three (3) bids shall be obtained for each purchase. (Election of 11-6-01)

### Sec. 6. Purchases over five thousand dollars.

All purchases or contracts in excess of five thousand dollars (\$5,000.00) shall be made only upon written specifications after public notice and competition. Sealed bids shall be opened publicly, in the presence of the mayor or an official designated by him. (Election of 11-6-01)

### Sec. 7. Award to be to lowest and best bidder; right to reject bids; waiver of formalities.

The award of any purchase or contract, in whole or in part, or any combination thereof, for which written sealed bids are required shall be made to either (a) the lowest responsible bidder consistent with the specifications or, (b) to the lowest responsible bidder consistent with the specifications whose bid or proposal is deemed most favorable to the city by the purchasing agent and finance director.

The city of Woonsocket reserves the right to reject any and all bids, to waive any informality in the proposals received except bid surety where required.

**Editor’s note**—Chapter VIII, § 7 above is set out as amended at an election called by Ord. No. 2362, adopted December 2, 1968, and held April 1, 1969. Said amendment was effective at 8:00 p.m. April 30, 1969.

**Sec. 8. Series of orders for same project deemed one order.**

A series of orders for the same project shall be construed to be one order or contract and the finance department shall disapprove the same as circumventing the requirement of this charter for competitive bidding.

**Sec. 9. Requisition, unencumbered balance required.**

All purchases made and contracts executed on behalf of the city shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged. No contract or order shall be issued to any vendor unless and until the finance department certifies that there is a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is issued.

**Sec. 10. City council confirmation.**

All purchases or contracts in the nature of lease purchase shall not be awarded until approved by resolution of the city council. All purchases or contracts in excess of one hundred thousand dollars (\$100,000.00) or purchases or contracts scheduled to be performed beyond one (1) year shall not be awarded until approved by resolution of the city council.  
(Election of 11-16-83; election of 11-3-87)

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