AGENDA
CITY OF GAUTIER, MISSISSIPPI
CITY HALL COUNCIL CHAMBERS
November 19, 2019 @ 6:30 PM

I. Call to Order

1. Prayer

2. Pledge of Allegiance

II. Agenda Order Approval

III. Announcements

1. Petro Chevrolet and the City of Gautier presents "Rockin' the Roundabout" in Gautier on November 22, 2019 from 6:00 p.m. to 8:30 p.m.

2. Offices closed Thursday, November 28th and Friday, November 29th in observance of Thanksgiving Day.

3. Lights and Lagniappe on the Bayou – Saturday, December 7th at 3:00 PM at Gautier City Hall

IV. Presentation Agenda

V. Business Agenda

1. Authorization to Acknowledge Bids and Award Contract for the Robinson Still Road Water and Sewer Project

☐	STAFF PRESENTATION	☐	PUBLIC QUESTIONS/COMMENTS (3 MINUTES PER PERSON)	☐	MOTION COUNCIL DISCUSSION/QUESTIONS	☐	VOTE

2. Authorization to Acknowledge Bids and Award Contract for Shepard State Park Marshwalk Pier

☐	STAFF PRESENTATION	☐	PUBLIC QUESTIONS/COMMENTS (3 MINUTES PER PERSON)	☐	MOTION COUNCIL DISCUSSION/QUESTIONS	☐	VOTE

3. **Consideration of a Special Exception Permit that would allow a Mobile Home in a C-3, Highway Commercial Zoning District (GPC 19-19-SE).**

☐	STAFF PRESENTATION	☐	PUBLIC QUESTIONS/COMMENTS (3 MINUTES PER PERSON)	☐	MOTION COUNCIL DISCUSSION/QUESTIONS	☐	VOTE

4. **Approval of a Supplemental Agreement No. 1 to Right of Way Technology, Inc. Contract for the Martin Bluff Road Widening Project: STP-9194-00(001)LPA/105069-801000**

☐	STAFF PRESENTATION	☐	PUBLIC QUESTIONS/COMMENTS (3 MINUTES PER PERSON)	☐	MOTION COUNCIL DISCUSSION/QUESTIONS	☐	VOTE

5. **Approval of Docket of Claims**

☐	STAFF PRESENTATION	☐	PUBLIC QUESTIONS/COMMENTS (3 MINUTES PER PERSON)	☐	MOTION COUNCIL DISCUSSION/QUESTIONS	☐	VOTE

VI. Consent Agenda (All items approved in one motion)

1. **Receive October 2019 Privilege License Report**

2. **Authorization to enter into a Lease Purchase Agreement with Motorola Solutions and approval of a $50,000 down payment from the "Wireless Communication Funds"**

3. **Approval to accept a monetary donation for The City of Gautier's Lights and Lagniappe on the Bayou**

4. **Approval for road closure and traffic control for the 2019 Lights and Lagniappe on the Bayou Firework Show**

5. **Approval to waive the deposit in the amount of ($100.00) and rental fee in the amount of ($150.00) for the use of the Gautier Senior Center for Gautier Elementary students Fall fundraiser limo ride pizza party**

6. **Approve proposal by Colony Insurance Company for property coverage on the water ionization plant and the eight (8) municipal wells through HUB International**

7. **Approval of minutes from Regular Council Meeting held November 5, 2019.**

VII. STUDY AGENDA

1. **Discuss Citizen Comments**

2. **Discuss Council Comments**

3. **Discuss City Manager Comments**

4. **Discuss City Clerk Comments**

5. **Discuss City Attorney Comments**

Adjourn until December 3, 2019 at 6:30 PM
www.gautier-ms.gov

CITY OF GAUTIER, MISSISSIPPI
ANNOUNCEMENT AGENDA
November 19, 2019

ITEM DESCRIPTION:

ANNOUNCEMENTS

1. **Petro Chevrolet and the City of Gautier presents "Rockin' the Roundabout" in Gautier on November 22, 2019 from 6:00 p.m. to 8:30 p.m.**

2. **Offices closed Thursday, November 28th and Friday, November 29th in observance of Thanksgiving Day.**

3. **Lights and Lagniappe on the Bayou – Saturday, December 7th at 3:00 PM at Gautier City Hall**

NOTES:

Petro
CHEVROLET
Cadillac
& THE CITY OF GAUTIER
present
ROCKIN' the ROUNDABOUT
in GAUTIER
FREE EVENT!
LIVE MUSIC
4th Friday of the month
6-8:30 p.m.
AUGUST 23 - SEPTEMBER 27 - OCTOBER 25 - NOVEMBER 22

STATE OF MISSISSIPPI

Office of the Governor

PROCLAMATION

WHEREAS, pursuant to Miss. Code Ann. Section 3-3-7, Thanksgiving Day, Christmas Day and New Year's Day are declared legal holidays in the State of Mississippi; and

WHEREAS, during the Thanksgiving holiday and Christmas and New Year's season, many state employees will spend time with their families in Mississippi and in other states;

NOW, THEREFORE, I, Phil Bryant, Governor of the State of Mississippi, pursuant to the authority vested in me under the Constitution of the State of Mississippi and applicable statutes of the State of Mississippi, do hereby authorize the closing of all offices of the State of Mississippi on Thursday, November 28, 2019, in observance of THANKSGIVING DAY; on Wednesday, December 25, 2019, in observance of CHRISTMAS DAY; and on Wednesday, January 1, 2020, in observance of NEW YEAR'S DAY.

IN ADDITION, I hereby authorize the executive officers of all state agencies, in their discretion after considering the interests of the people of the State of Mississippi and the staffing needs of their respective agencies, to close all offices of the State of Mississippi on Friday, November 29, 2019, in further observance of the Thanksgiving holiday and on Tuesday, December 24, 2019, in further observance of Christmas; and to staff their respective agencies as needed during the Thanksgiving holiday and Christmas season.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

DONE in the City of Jackson, on the 8th day of October in the year of our Lord, two thousand and nineteen, and of the Independence of the United States of America, the two hundred and forty-fourth.

PHIL BRYANT
GOVERNOR

BY THE GOVERNOR

Join
the City of Gautier for Lights & Lagniappe on the Bayou

Saturday, December 7th
3:00 p.m.
Gautier City Hall

Tree Lighting. Pictures with Santa. Fun. Fireworks. Winter Wonderland Snow Party . Christmas Festivities

PYRO SHOWS

GAUTIER MISSISSIPPI

Nature's Playground

Gulf Coast Snowmakers

CITY OF GAUTIER, MISSISSIPPI
PRESENTATION AGENDA
November 19, 2019

ITEM DESCRIPTION:

PRESENTATION AGENDA

None

NOTES:

CITY OF GAUTIER
Business Agenda Item #1
Fact Sheet

Council Meeting:	**November 19, 2019**
Title:	**Authorization to acknowledge Bids and Award a contract for the Robinson Still Road Water and Sewer Project**
Introduced by:	
Contact Person/Telephone	**April Havens 497-8000 ext. 315**

Summary Explanation: Authorization to acknowledge Bids and Award a contract for the Robinson Still Road Water and Sewer Project

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract/Agreement	☒
Minutes	☐
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	**City Manager**

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Second Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Voted as follows:		**Ayes**	**Nays**	**Abstained**	**Absent**
Mayor	**Torjusen**	☐	☐	☐	☐
At Large	**Martin**	☐	☐	☐	☐
Ward 1	**George**	☐	☐	☐	☐
Ward 2	**Jackson**	☐	☐	☐	☐
Ward 3	**Vaughan**	☐	☐	☐	☐
Ward 4	**Anderson**	☐	☐	☐	☐
Ward 5	**Colledge**	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 000-2019

WHEREAS, on September 27, 2019, the project engineer, Seymour Engineering, received sealed bids for the Robinson Still Road Water and Sewer Project (hereinafter, "the Project"); and

WHEREAS, Seymour Engineering, has tabulated the bid results which are incorporated by reference herein; and

WHEREAS, the lowest bid was received from Jay Bearden Construction Company in the amount of $195,425.63; and

WHEREAS, the second-lowest bid was received from Hudson Contracting, Inc. in the amount of $216,910.00; and

WHEREAS, pursuant to the bid documents, the City reserves the right to investigate the qualifications of the bidders, and to determine the ability of the bidders to perform the Project work; and

WHEREAS, Seymour Engineering, on behalf of the City, conducted such an investigation and has provided the results in the attached memorandum, dated November 12, 2019; and

WHEREAS, based on the information provided in the above memorandum, the investigation of Jay Bearden Construction Company fails to satisfy the City that said bidder is properly qualified to and capable of carrying out the obligations of the Contract and completing the work contemplated therein; and

WHEREAS, Seymour Engineering recommends awarding this contract to Hudson Contracting, Inc., as the lowest and best bidder; and

WHEREAS, the Mayor and Council Members hereby find that Hudson Contracting, Inc. has submitted the lowest and best bid; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that all submitted bids included in the bid tabulation are acknowledged.

IT IS FURTHER ORDERED, for the above reasons, and for those reasons included in the Seymour Engineering memorandum, that the bid submitted by Jay Bearden Construction Company is rejected.

IT IS FURTHER ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the award and execution of a contract with Hudson Contracting, Inc. for the Robinson Still Road Water and Sewer Project, as lowest and best bidder, is hereby authorized and approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by BLANK seconded by BLANK and the following vote was recorded:

AYES:

NAYS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

BLANK by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: April Stennett, Grants Administrator
Date: 11/12/2019
Subject: Authorization to Acknowledge Bids and Award Contract for the Robinson Still Road Water and Sewer Project

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REQUEST:
The Grants and Projects Department requests that City Council acknowledge receipt of eight bids for the Robinson Still Road Water and Sewer Project, reject the bid of Jay Bearden Construction Co., and award a contract to Hudson Contracting, Inc. as the lowest and best bid.

BACKGROUND:
The City of Gautier annexed the Robinson Still Road area in 2002. This project will expand water and sewer services to the area. The project will be funded through the revenue bond.

DISCUSSION:
Eight bids for this project were received and opened on Sept. 27, 2019. The bidders were DNA Underground, Inc., F & F Construction, Inc., Gulf Coast Underground, Hudson Contracting, Inc., Jay Bearden Construction Co., Moran Hauling, Inc., SCI, Inc., and Twin L Construction, Inc. The low bidder was Jay Bearden Construction Co., with a bid of $195,425.63. The second-lowest bid was received from Hudson Contracting, Inc. in the amount of $216,910.

Pursuant to the bid documents, the City reserves the right to investigate the qualifications of the bidders and to determine the ability of the bidders to perform the work. Seymour Engineering, on behalf of the City, conducted an investigation and has provided the results in the attached memorandum. Based on the information provided, the investigation of Jay Bearden Construction Company fails to satisfy the City that the bidder is properly qualified to and capable of carrying out the obligations of the contract and completing the work.

Seymour Engineering recommends awarding this contract to Hudson Contracting, Inc., as the lowest and best bidder.

RECOMMENDATION:
The Grants and Projects Department recommends that City Council acknowledge receipt of eight bids for the Robinson Still Road Water and Sewer Project, reject the bid of Jay Bearden Construction Co., and award a contract to Hudson Contracting, Inc. as the lowest and best bid.

The City Council may:
1) Acknowledge the bids, reject the bid of Jay Bearden Construction Co., and award a contract to Hudson Contracting, Inc. as the lowest and best bid, as presented; or
2) Not acknowledge the bids and not award a contract to the lowest and best bidder as presented.

ATTACHMENTS:
1. Business Agenda Item 1 - Authorization to award and execute a contract with Robinson Still Road
2. Supplementary Conditions
3. General Conditions

4. Engineer's Memo and Bid Tabulation
5. Proposed Contract

SUPPLEMENTARY CONDITIONS
OF THE
CONSTRUCTION CONTRACT

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SUPPLEMENTARY CONDITIONS

Prepared for the City of Gautier

GENERAL

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. C-700, 2007 Edition) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the same meanings stated below, which are applicable to both the singular and plural thereof.

The Contractor's attention is directed to Division 1, GENERAL REQUIREMENTS, which contains other directions pertinent to the project.

SPECIFIC COMMENTS

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

SC-1.01.A.19. *Engineer* -- ADD the following language at the end of the last sentence in Paragraph 1.01.A.19:

Wherever in these Contract Documents the word "Engineer" or "E/A" or "A/E" appears, it shall be understood to mean the Engineer, Seymour Engineering, PLLC, and their authorized representatives, acting either directly or indirectly as authorized agents of the Owner.

SC-1.01.A.29. *Owner* -- ADD the following language at the end of the last sentence in Paragraph 1.01.A.29:

Whenever in these Contract Documents the word "Owner" appears, it shall be understood to mean the City of Gautier acting by and through their official minutes, and their authorized representatives.

SC-1.01.A.44. *Substantial Completion* – AMEND the language in the first sentence of Paragraph 1.01.A.44 to read as follows:

CHANGE the language from “in the opinion of Engineer,” to “in the opinion of the Engineer and Owner,”

ARTICLE 2 – PRELIMINARY MATTERS

SC-2.01.B *Evidence of Insurance* DELETE Paragraphs and 2.01.B in its entirety and INSERT the following in its place:

B. Before any Work at the Site is started, Contractor shall deliver to Owner, 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 is required to purchase and maintain in accordance with Article 5.

SC-2.02 *Copies of Documents* AMEND the language in the first sentence in Paragraph 2.02.A to read as follows:

CHANGE the language from “up to ten” to “up to three unless otherwise noted in Article 4”.

SC-2.03 *Commencement of Contract Times; Notice to Proceed* DELETE the last sentence in its entirety.

SC-2.06.B *Preconstruction Conference; Designation of Authorized Representative* AMEND the language in the second sentence in Paragraph 2.06.B to read as follows:

"Contractor's representative shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of Contractor. Owner's representative is authorized to act as a liaison with respect to the Project."

SC-2.07 ***Initial Acceptance of Schedules*** ADD the following new language at the end of Paragraph 2.07.A.2:

The requirements for specification Section 01300 - Submittals During Construction shall also be met prior to accepting the Schedule of Submittals.

SC-2.08 ***Narrative Report Outline*** ADD the following new paragraph immediately following Paragraph 2.07:

SC-2.08 A narrative report as outlined in Specification section 01311 shall be required and shall accompany all Payment Applications prior to approval.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

SC-3.03.A ***Reporting Discrepancies*** Add this sentence to the end of Paragraph 3.03A.1:

1. Even though Contractor is required to notify Engineer as to possible quantity differences, there shall be no price adjustment given to the Contractor as a result of any variation between the estimated quantities and the actual quantities necessary to complete the required work.

SC-3.03.B ***Resolving Discrepancies*** ADD the following new language at the end of this section:

c. Whenever the Contract Documents contain contradictions or discrepancies within the document, the most costly means or method shall be applied.

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

SC-4.01.A ***Availability of Lands*** DELETE the last sentence.

SC-4.01.B ***Availability of Lands*** DELETE this paragraph in its entirety.

SC-4.02 ***Subsurface and Physical Conditions*** DELETE Paragraph 4.02.A and Paragraph 4.02.B in their entirety and REPLACE 4.02A.1and 4.02B.1 with the following:

A.1. Subsurface data known to Owner at the time of considering said project may have changed as a result of weather conditions, regular marine traffic, incidental work within the area, expansion of marsh grasses and submerged aquatic vegetations, etc. Any such change or a combination of change could present different conditions thus have an impact on the quantity of dredge material necessary to complete the required work and comply with all permit requirements.

B.1. Technical data is advisory only and Contractor is solely responsible for the accuracy of any data used for their field assessment and evaluation of site conditions of required work to be completed.

SC-4.02.C ***Site Surveys*** ADD the following new paragraph immediately after Paragraph 4.02.B:

C. *Site Surveys:* Site survey information has been compiled from past records and limited field investigations and although stated with as much accuracy as possible, may contain errors or discrepancies. Contractor shall perform investigations as necessary to accomplish the Work. Any unknown item encountered that impacts the Work shall be handled under Article 4.03.

SC-4.03.C.1 ***Possible Price and Times Adjustments*** DELETE Paragraph 4.03C Possible Price and Times Adjustments in its entirety and REPLACE with the following:

4.03C. Contractor may only be entitled to an adjustment in price or time due to abnormal weather conditions or other conditions when such claim is validated by Engineer. However, Contractor will not be entitled to increase in price due to any variations in estimated to completed dredge quantities.

SC-4.04.B.2 ***Underground Facilities; Not Shown or Indicated*** AMEND the language in the second sentence of paragraph 4.04.B.2 to read as follows:

CHANGE the language from "An equitable adjustment shall be made in the Contract Price…" to "An equitable adjustment may be made in the Contract Price…".

SC-4.05 ***Reference Points*** AMEND the language in the second sentence of Paragraph 4.05.A to read as follows:

CHANGE the language from "without prior written approval of Owner" to "without prior written approval of Owner and Engineer".

SC-4.06 ***Hazardous Environmental Conditions at Site*** DELETE Paragraphs 4.06.A and 4.06.B in their entirety and INSERT the following in their place:

A. No reports or drawings of hazardous conditions at the site are known to the Owner or Engineer.

B. Not used.

SC-4.06.G ***Hazardous Environmental Conditions at Site*** **DELETE Paragraphs 4.06.G in its entirety.**

SC-4.07 ***Site Investigation and Representation*** ADD the following new paragraph immediately after Paragraph 4.06:

SC-4.07 *Site Investigation and Representation*

The Contractor acknowledges that he has satisfied himself as to the nature and location of the Work; the general and local conditions, particularly those bearing upon availability of transportation, disposal, handling and storage of materials; availability of labor, water, electric power, and roads; uncertainties of weather, river stages, or similar physical conditions at the site; the conformation and conditions of the ground; the character of equipment and facilities needed preliminary to and during the prosecution of the work; and all other matters which can in any affect the Work or the cost thereof under this Contract. The Contractor further acknowledges subject to conditions in Section 4.02 that he has satisfied himself as to the character, quality, and quantity of surface and subsurface materials and groundwater to be encountered from inspecting the site. Any failure by the Contractor to acquaint himself with all the available information will not relieve him from responsibility for properly estimating the difficulty or cost of successfully performing the Work. Neither the Owner nor the Engineer assumes responsibility for any conclusion or interpretation made by the Contractor.

ARTICLE 5 – BONDS AND INSURANCE

SC-5.03.B ***Certificates of Insurance*** DELETE Paragraph 5.03.B in its entirety.

SC-5.03 ***Certificates of Insurance*** ADD the following new paragraph immediately after Paragraph 5.03.E:

F. The Contractor shall be required to submit a Certificate of Insurance with every pay application; or, no later than every thirty (30) days for the term of Contract. If an approved Certificate of Insurance is not included with the pay application, then it will be considered non-compliant with the Contract Documents and returned to the Contractor.

SC-5.04 ***Contractor's Liability Insurance*** ADD the following new paragraph immediately after Paragraph 5.04.B:

C. The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverages for not less than the following amounts or greater where required by Laws and Regulations:

1. Worker's Compensation, and related coverage under Paragraph 5.04.A.1 and A.2 of the General Conditions:

   a. Statutory

   b. Applicable Federal: Statutory (e.g. Longshoreman's)

   c. Employer's Liability: $100,000 or Statutory

2. Contractor's General Liability under Paragraph 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:

   a. General Aggregate: $ 1,000,000.00

   b. Products- Completed Operations Aggregate $ 1,000,000.00

   c. Personal and Advertising Injury $ 1,000,000.00

   d. Each Occurrence (Bodily Injury and Property Damage) $ 1,000,000.00

   e. Property Damage liability insurance will provide Explosion, Collapse and Under-ground coverages where applicable.

   f. Excess or Umbrella Liability

      1) General Aggregate $ 1,000,000.00

      2) Each Occurrence $ 1,000,000.00

3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:

   a. Bodily Injury:

      Each Person $ 1,000,000.00

      Each Accident $ 1,000,000.00

   b. Property Damage:

      Each Accident $ 1,000,000.00

   c. Combined Single:

      Limit of $ 1,000,000.00

4. The Contractual Liability coverage required by Paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following:

a. Bodily Injury:

Each Person	$ 1,000,000.00

b. Property Damage:

Each Accident	$ 1,000,000.00
Annual Aggregate	$ 1,000,000.00

5. The list of names, other persons, or entities to be included on the policy as additional insured are as per Paragraph 5.11.

SC-5.06.A Property *Insurance* DELETE Paragraph 5.06.A in its entirety and INSERT the following in its place:

A. When available, Contractor shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof.

1. This insurance shall:

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

b. in addition to the individuals and entities specified, include additional insured per Paragraph 5.11.

c. 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 and damage to the Work, temporary buildings, falsework, 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 that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

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

e. 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;

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

g. include testing and start up; and

h. 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.

2. Contractor shall be responsible for any deductible or self-insured retention.

3. The policies of insurance required to be purchased and maintained by Contractor in accordance with this Paragraph SC-5.06.A shall comply with the requirements of paragraph 5.06.C of the General Conditions.

SC-5.06.B DELETE this article in its entirety.

SC-5.06.E DELETE this Paragraph in its entirety.

SC-5.07.A *Waiver of Rights* DELETE the third and fourth sentences in their entirety.

SC-5.07.B DELETE this Paragraph in its entirety.

SC-5.11 *Additional Insured* ADD the following new paragraph immediately after Paragraph 5.10.

SC- 5.11 *Additional Insured*

A. Where applicable, all insurance policies shall name the Owner and Engineer as herein before defined as additional insured.

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITY

SC-6.06 *Concerning Subcontractor's, Suppliers, and Others* ADD a new paragraph immediately after Paragraph 6.06.G:

H. Owner or Engineer may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on Work performed for Contractor by a particular Subcontractor or Supplier.

SC-6.07.B *Patent Fees and Royalties* DELETE this paragraph in its entirety.

SC-6.12 *Record Documents* ADD a new paragraph immediately after Paragraph 6.12.A:

B. Owner may withhold progress payments until record documents are properly updated. Final payment may not be made until all record documents are accepted in writing by Owner.

SC-6.17 *Shop Drawings and Samples* ADD the following new paragraphs immediately after Paragraph 6.17.E:

F. Contractor shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing subsequent submittals of Shop Drawings, samples or other items requiring approval and Contractor shall reimburse Owner for Engineer's charges for such time.

G. In the event that Contractor requests a substitution for a previously approved item, Contractor shall reimburse Owner for Engineer's charges for such time unless the need for such substitution is beyond the control of Contractor.

SC-6.19 *Contractor's General Warranty ~~Warrantee~~ and Guarantee* ADD the following new paragraph immediately after Paragraph 6.19.C:

D. Unless additional warranties are included in the technical specifications, the Contractor shall guarantee all Work for a period of one-year following Substantial Completion.

SC-6.20 *Indemnification* DELETE this article in its entirety and INSERT the following in its place:

A. Contractor shall defend, indemnify and hold harmless Owner and Engineer, their agents, servants, employees, officers, directors, members, partners, successors and assigns from actions, causes, suits, costs, claims, damages, expenses and demands whatsoever in law or in equity, (including but not limited to all fees and charges of engineers, architects, and attorneys and all court or other dispute resolution costs), with

respect to, or on account of, any injury, including bodily injury, disability or death, or damages to property, including loss of the use thereof, in any way attributable to or in connection with performance of the Contractor under this Contract.

ARTICLE 7 – OTHER WORK AT SITE

SC-7.04 ***Claims Between Contractors*** ADD a new paragraph immediately after Paragraph 7.03:

SC-7.04 *Claims Between Contractors*

A. Should Contractor cause damage to the work or property of any other contractor at the Site, or should any claim arising out of Contractor's performance of the Work at the Site be made by any other contractor against Contractor, Owner, Engineer, or the construction coordinator, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute by arbitration or at law.

B. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner, Engineer, the construction coordinator and the officers, directors, partners, employees, agents and other consultants and subcontractors of each and any of them from and against all claims, costs, losses and damages (including, but not limited to, fees and charges of engineers, architects, attorneys, and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any other contractor against Owner, Engineer, Engineer's Consultants, or the construction coordinator to the extent said claim is based on or arises out of Contractor's performance of the Work. Should another contractor cause damage to the Work or property of Contractor or should the performance of work by any other contractor at the Site give rise to any other Claim, Contractor shall not institute any action, legal or equitable, against Owner, Engineer, or the construction coordinator or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from Owner, Engineer, or the construction coordinator on account of any such damage or Claim.

C. If Contractor is delayed at any time in performing or furnishing Work by any act or neglect of another contractor, and Owner and Contractor are unable to agree as to the extent of any adjustment in Contract Times attributable thereto, Contractor may make a Claim for an extension of times in accordance with Article 12. An extension of the Contract Times shall be Contractor's exclusive remedy with respect to Owner, Engineer, and construction coordinator for any delay, disruption, interference, or hindrance caused by any other contractor. This paragraph does not prevent recovery from Owner, Engineer, or construction coordinator for activities that are their respective responsibilities.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

SC-8.02 ***Replacement of Engineer*** AMEND the language of Paragraph 8.02.A to read as follows: INSERT "resignation or" immediately before "termination". DELETE "to whom Contractor makes no reasonable objection,".

SC-8.11 ***Evidence of Financial Arrangements*** Add the following new paragraph immediately after Paragraph 8.11.A:

B. On request of Contractor prior to the execution of any Change Order involving a significant increase in the Contract Price, Owner shall furnish to Contractor reasonable evidence that adequate financial arrangements have been made by Owner to enable Owner to fulfil the increased financial obligations to be undertaken by Owner as a result of such Change Order.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

SC-9.03 ***Project Representative*** AMEND the language in the second sentence of Paragraph 9.03.A to read as follows:

DELETE the language "the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in".

SC-9.07A *Determination for Unit Price Work* AMEND the language in the first sentence of Paragraph 9.07 to read as follows:

"Engineer will determine the actual quantities and classifications of completed Unit Price Work performed by Contractor."

SC-9.08.B *Decisions on Requirements of Contract Documents and Acceptability of Work* AMEND the language in the first sentence of Paragraph 9.08.B to read as follows:

"Engineer will, with reasonable promptness, render a written recommendation or decision on the issue referred."

SC-9.08.B *Decisions on Requirements of Contract Documents and Acceptability of Work* AMEND the language in the last sentence of Paragraph 9.08.B to read as follows:

"The date of the Engineer's recommendation / decision shall be the date it is rendered in writing and provided to both parties."

SC-9.08.C *Decisions on Requirements of Contract Documents and Acceptability of Work* DELETE Paragraph 9.08.C in its entirety and INSERT the following in its place:

"Engineers written recommendation or decision on the issue referred is subject to the provision of Paragraph 10.05."

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

C-10.05.A *Engineer's Decision Required* DELETE the last sentence of Paragraph 10.05.A.

SC-10.05.C Item 1, REPLACE "deny" with "recommend denial of". Item 2, REPLACE "approve" with "recommend approval of".

SC-10.05.E DELETE Paragraph 10.05.E in its entirety and INSERT the following in its place:

"Owner or Contractor may invoke dispute resolution in Article 16 within 30 days of the engineer's recommendation of denial or approval."

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

SC-11.03.B Amend the language in the second sentence of Paragraph 11.03.B as follows:

"*Determinations* of actual quantities and classifications of completed Unit Price Work performed by the Contractor will be made by Engineer subject to the provisions of Paragraph 9.07."

SC-11.03.D DELETE Paragraph 11.03.D in its entirety and INSERT the following in its place:

D. There shall be no increase in price due to a variation in actual dredge quantities from the estimated quantities and any variation shall be the sole responsibility of Contractor in formulation of his bid and shall include any possible variations from estimate.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT ITEMS

No Comment.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTIONS, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

SC-13.03.A ADD the following new sentence immediately after the first sentence of Paragraph 13.03.A:

Timely notice shall be as stated in the appropriate specification and no less than 24 hours prior to scheduling the Work.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

SC-14.02.A.1 ***Application for Payments*** AMEND the language in the first sentence of Paragraph 14.02.A.1 to read as follows:

CHANGE the language from "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 an accompanied by such supporting documentation as is required by the Contract Documents. " to "On or before the 20th day of each month, Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed by the 15th of that month, accompanied by such supporting documentation as is required by the Contract Documents."

SC-14.02.A.3 ***Application for Payments*** DELETE Paragraph 14.02.A.3 in its entirety and INSERT the following in its place:

3. The Owner will retain 10% of the amount of each estimate until final completion of the project. On monthly estimates subsequent to the first estimate submitted that includes invoices for stored materials for which payment to the Contractor has been made, there shall be a signed statement that the invoices have been paid by the Contractor.

   The statement shall read as follows:

   This is to certify that payment has been made for invoiced materials included in previous monthly estimate no._____ thru _____.

   Signed: _____

   In the event that such statement is not furnished or the manufacturers or material suppliers notify the Owner in writing that they have not been paid for materials included on previous estimates, the Owner may reduce payment in accordance with Paragraph 14.02.

SC-14.02.C ***Payment Becomes Due*** AMEND the language in the first sentence of Paragraph 14.02.C.1 to read as follows:

CHANGE the language from "Ten days after presentation of the Application for Payment to Owner," to "Ten days after approval of the Application for Payment by Owner".

SC-14.07.C.1 ***Payment Becomes Due*** AMEND the language in the first sentence of Paragraph 14.07.C.1 to read as follows:

CHANGE the language from "Thirty days" to "Sixty days"

SC-14.09.A.1 ***Waiver of Claims*** DELETE this article in its entirety.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

No comment.

SC-15.02.C ***Owner May Terminate for Cause*** DELETE the second sentence of Paragraph 15.02.C.

SC-15.02.D DELETE in its entirety.

SC-15.02.F DELETE in its entirety and REPLACE with: "The termination provisions of the Standard General Conditions of the Construction Contract and the Supplementary Conditions of the Construction Contract shall supercede the termination procedures of any performance bond provided under the provisions of paragraph 5.01A."

ARTICLE 16 – DISPUTE RESOLUTION

SC-16.01 Delete Paragraph 16.01 in its entirety and insert the following in its place:

SC-16.01 Meet to Confer and Negotiate

A. Within 30 days of notice of Engineers recommended action under 10.05C3 or 10.05D, Owner or Contractor may give to the other party written notice of intent to submit the Claim to a process of bilateral negotiations as set forth below

B. Within 30 days of the delivery of such notice, Owner and Contractor shall meet and confer regarding the Claim. A good-faith effort to negotiate resolution shall be made by both parties.

C. If the negotiations contemplated by Paragraph SC-16.01.B are unsuccessful, management representatives of Owner and Contractor at least one tier above the individuals who met under SC16.01.B shall meet, confer, and negotiate within 30 days of the closure of the unsuccessful negotiations.

D. If the Claim is not resolved by negotiation, Engineer's action under Paragraph 10.05C or a denial pursuant to Paragraphs 10.05C3 or 10.05D may be submitted to a court of competent jurisdiction to be determined or the parties may agree to submit the claim to another dispute resolution process

E. Nothing in this article shall be deemed to prohibit or interfere with the rights of the parties to file a court action where necessary to preserve their rights to proceed with litigation.

ARTICLE 17 – MISCELLANEOUS

SC-17.05 ***Controlling Law*** DELETE Paragraph 17.05.A in its entirety and INSERT the following in its place:

A. The terms and conditions of this Contract shall be construed and interpreted under, and all respective rights and duties shall be governed by, the laws of the State of Mississippi. Wherever applicable, each provision of these Contract Documents shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of these Contract Documents shall be prohibited by or invalid under applicable law, such provisions shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of these Contract Documents.

B. This Contract shall not be construed more strictly against one party than the other merely by virtue of the fact that it may have been prepared by one of the parties.

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 Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

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 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 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.

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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.

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.

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

37. *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.

38. *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.

39. *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.

40. *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.

41. *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

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furnished by Owner which are designated for the use of Contractor.

42. *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.

43. *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.

44. *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.

45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.

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

47. *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 Subcontractor.

48. *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.

49. *Unit Price Work*—Work to be paid for on the basis of unit prices.

50. *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.

51. *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 words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated 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 information in the Contract Documents and with the design concept of the 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:*

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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 that 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

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

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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; Designation of Authorized Representatives*

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.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

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

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 reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated 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, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, 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:

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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 discovers, or has actual knowledge of, 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 (a) any applicable Law or Regulation , (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then 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 had actual knowledge 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, or code, or the instruction of any Supplier (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 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 its *consultants*, including electronic media editions; or

2. reuse any 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 adaptation by Engineer.

B. The prohibitions 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. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by 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

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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

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 known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the 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 officers, directors, members, partners, employees, agents, consultants, or subcontractors 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 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

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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, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall 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 provided by others; 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

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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:* The Supplementary Conditions identify those reports and *drawings* known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the 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 officers, directors, members, partners, employees, agents, consultants, or subcontractors 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. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

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 written notice to Contractor: (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.

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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, members, 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, members, 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

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 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 or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

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 and loss payee identified

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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 and loss payee 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.

C. Failure of Owner to demand such certificates or other evidence of *Contractor's* full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect *Contractor*.

E. The insurance *and* insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

A. Contractor shall purchase and maintain such 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, be written on an occurrence basis, include as additional insureds (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, members, 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 contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

4. 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);

5. 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

6. include completed operations coverage:

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a. Such insurance shall remain in effect for two years after final payment.

b. 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, members, 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 a loss payee;

2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, 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 that 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 loss payee to whom a certificate of insurance has been issued.

B. Owner shall purchase and maintain such equipment breakdown 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, members, 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 a loss payee.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this 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 loss payee 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 this *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

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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 as loss payees (and the officers, directors, members, 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 loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, 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 as loss payees (and the officers, directors, members, 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, members, 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, members, 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 loss payees, 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

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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

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.

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.

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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; and

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

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 if 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 by 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 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 incorporation or use of the proposed substitute item in connection

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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; and

4) 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 a Change Order in the case of a substitute and 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 so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable 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

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2. shall 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 a loss payee 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, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, 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, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors 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 specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, 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

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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 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, members, 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. Such responsibility does not relieve Subcontractors of their

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responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. 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. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

D. Contractor shall inform Owner and Engineer of the specific *requirements* of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. 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 Drawings or Specifications or to the acts or omissions of Owner or Engineer 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).

F. 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 accepted 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,

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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:

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:

a. 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;

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

c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

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

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 Drawings 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.

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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 officers, directors, members, partners, employees, agents, consultants, and subcontractors 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, members, 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 officers, directors, members, partners, employees, agents, consultants, or subcontractors 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, members, 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.

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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.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or through 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, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and 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 such work; provided, however, that Contractor may cut or alter others' 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

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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 wrongful actions or inactions.

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

ARTICLE 8 – OWNER'S RESPONSIBILITIES

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 with respect to 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 relating to existing surface or subsurface structures at the Site.

8.06 *Insurance*

A. Owner's responsibilities, if any, with 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 with 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. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

8.12 *Compliance with Safety Program*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed pursuant to Paragraph 6.13.D.

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ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

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.

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

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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 believes 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.

9.10 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

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).

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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.D.

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 the provisions of any bond require notice to be given to a surety 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), 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 Times 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.

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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

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 not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:

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 on the Work. 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, as imposed by Laws and Regulations.

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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, express and courier services, 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, expediters, 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.

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

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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 to 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 Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at

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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 their officers, directors, members, partners, employees, agents, consultants, or subcontractors 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

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. 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, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's

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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 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, Contractor shall, if requested by Engineer, uncover such Work 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.

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13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of written 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 for 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

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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

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 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:

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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, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and 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. 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

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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 remedies the reasons for such action.

3. Upon a subsequent determination 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 and subject to interest as provided in the Agreement.

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 remove its property and 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, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D 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.

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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.6;

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 might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, 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

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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

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 repeated 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.

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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

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

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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 the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

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*.

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SEYMOUR
ENGINEERING

Civil Engineers & Professional Land Surveyors

MEMORANDUM

DATE: November 12, 2019

TO: The City Council of The City of Gautier, Mississippi

FROM: Mark Seymour, P.E., President
Seymour Engineering, PLLC

SUBJECT: Rejection of Low Bid in lieu of Lowest and Best Bid
Robinson Still Road Water and Sewer Project

Please be advised that bids for this project were accepted on September 27, 2019. I have included the bid tabulation for your review. As you will notice from the bid tabulation, Jay Bearden Construction Company (Contractor) provided the lowest bid in the amount of $195,425.63. Upon receipt of this bid, it was requested that the Contractor provide references for similar work regarding scope and price.

When contacting the various references, the general consensus was that the Contractor is highly unorganized and has issues remaining on schedule. Some references expressed a need for additional oversight on behalf of the Engineer during construction as the Contractor was willing to cut corners; thus, resulting in a lower quality working product after construction is complete. This brings about the concern for operational issues of the system in the future as one reference explained that water main failures were occurring due to this low-quality work three years after the project's completion. This is especially concerning since the warranty period for failures is only one year after completion. Another reference spoke of an issue where the Contractor abandoned the job prior to a grant deadline and left the Owner scrambling to figure out how to complete the project and not expend additional funds under the grant.

It is also known that the Contractor is currently in two separate lawsuits with municipalities in Harrison County. One being with the City of Gulfport concerning a roadway paving and drainage project and the other being with the Harrison County Utility Authority concerning a gravity sewer project. However, representatives of these municipalities refused to comment on the status or circumstances of these lawsuits.

Because of these reasons, I feel it would be in the best interest of the City to reject Jay Bearden Construction Company's bid and award the construction contract to the next lowest and best bidder, Hudson Contracting, Inc. in their bid amount of $216,910.00. Hudson Contracting is a reputable company and has performed several installations of similar systems in Jackson County.

Mark Seymour, P.E., President
Seymour Engineering, PLLC

925 Tommy Munro Dr., Ste. G, Biloxi, MS 39532
Phone: 228-385-2350 Fax: 228-385-2353 Email: se@seymoureng.com

SEYMOUR SE ENGINEERING

DURLON R. BRYANT
LICENSED PROFESSIONAL ENGINEER
28742
9/30/19
STATE OF MISSISSIPPI

ROBINSON STILL ROAD WATER AND SEWER
CITY OF GAUTIER, MIISSISSIPPI
CONTRACTOR'S BID TABULATION

Bid Opening: Friday, September 27, 2019, at 2:00 P.M. Central Time
Location: Gautier City Hall, 3330 Highway 90, Gautier, MS 3*9553

Contractor Address City, State	Engineer's Estimate	DNA Underground, Inc. 16101 South Swan Rd. Gulfport, MS 39503 20907-MC	F & F Construction, Inc. 21525 Blackwell Farm Road Saucier, MS 39574 11070-MC	Gulf Coast Underground 5655 Middle Rd Theodore, AL 39582 14487-MC	Hudson Contracting, Inc. P.O. Box 30 Waynesboro, MS 39367 05632-MC

Item. No.	Description	Quantity	Unit	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
BASE BID													
1	Mobilization	1	LS	$ 22,000.00	$ 22,000.00	$ 82,475.00	$ 82,475.00	$ 22,800.00	$ 22,800.00	$ 35,000.00	$ 35,000.00	$ 45,000.00	$ 45,000.00
2	Clearing and Grubbing	1	LS	$ 2,000.00	$ 2,000.00	$ 10,000.00	$ 10,000.00	$ 2,000.00	$ 2,000.00	$ 10,000.00	$ 10,000.00	$ 1,500.00	$ 1,500.00
3	Connect 2" PVC Sewer Force Main to Exist MH	1	LS	$ 1,100.00	$ 1,100.00	$ 500.00	$ 500.00	$ 1,000.00	$ 1,000.00	$ 1,200.00	$ 1,200.00	$ 1,500.00	$ 1,500.00
4	Removal of Pavement (All Types and Thicknesses)	60	SY	$ 7.00	$ 420.00	$ 10.00	$ 600.00	$ 8.00	$ 480.00	$ 12.50	$ 750.00	$ 5.00	$ 300.00
5	Saw Cut Pavement (All Types and Thicknesses)	250	LF	$ 4.50	$ 1,125.00	$ 10.00	$ 2,500.00	$ 4.00	$ 1,000.00	$ 8.00	$ 2,000.00	$ 3.00	$ 750.00
6	Dewatering**	400	LF	$ 25.00	$ 10,000.00	$ 20.00	$ 8,000.00	$ 1.00	$ 400.00	$ 15.00	$ 6,000.00	$ 3.00	$ 1,200.00
7	Undercut Excavation (PM)*	120	CY	$ 13.00	$ 1,560.00	$ 6.00	$ 720.00	$ 7.00	$ 840.00	$ 17.00	$ 2,040.00	$ 5.00	$ 600.00
8	Select Bedding Material (PM)*	175	CY	$ 18.00	$ 3,150.00	$ 18.00	$ 3,150.00	$ 65.00	$ 11,375.00	$ 30.00	$ 5,250.00	$ 10.00	$ 1,750.00
9	10" Water Main C900 PVC	2,300	LF	$ 28.00	$ 64,400.00	$ 24.00	$ 55,200.00	$ 21.00	$ 48,300.00	$ 27.20	$ 62,560.00	$ 28.00	$ 64,400.00
10	10" Gate Valve with Box and Pad	1	EA	$ 1,800.00	$ 1,800.00	$ 1,750.00	$ 1,750.00	$ 1,750.00	$ 1,750.00	$ 2,050.00	$ 2,050.00	$ 2,500.00	$ 2,500.00
11	Air Release/Vacuum Valve	2	EA	$ 4,400.00	$ 8,800.00	$ 5,000.00	$ 10,000.00	$ 5,500.00	$ 11,000.00	$ 5,000.00	$ 10,000.00	$ 4,500.00	$ 9,000.00
12	1.25" Sched 80 PVC Sewer Force Main	180	LF	$ 14.00	$ 2,520.00	$ 18.00	$ 3,240.00	$ 5.00	$ 900.00	$ 9.30	$ 1,674.00	$ 8.00	$ 1,440.00
13	1.5" Sched 80 PVC Sewer Force Main	1,210	LF	$ 16.00	$ 19,360.00	$ 18.00	$ 21,780.00	$ 5.75	$ 6,957.50	$ 8.05	$ 9,740.50	$ 10.00	$ 12,100.00
14	2" Sched 80 PVC Sewer Force Main	1,120	LF	$ 18.00	$ 20,160.00	$ 18.00	$ 20,160.00	$ 6.25	$ 7,000.00	$ 8.90	$ 9,968.00	$ 12.00	$ 13,440.00
15	1.5" HDPE Directional Bored Sewer Force Main (Including all Fittings for Transition)	185	LF	$ 22.00	$ 4,070.00	$ 30.00	$ 5,550.00	$ 35.00	$ 6,475.00	$ 30.50	$ 5,642.50	$ 15.00	$ 2,775.00
16	2" HDPE Directional Bored Sewer Force Main (Including all Fittings for Transition)	120	LF	$ 28.00	$ 3,360.00	$ 30.00	$ 3,600.00	$ 45.00	$ 5,400.00	$ 33.50	$ 4,020.00	$ 18.00	$ 2,160.00
17	10" HDPE Directional Bored Water Main (Including all Fittings for Transition)	120	LF	$ 100.00	$ 12,000.00	$ 120.00	$ 14,400.00	$ 132.00	$ 15,840.00	$ 140.00	$ 16,800.00	$ 80.00	$ 9,600.00
18	Fire Hydrant Assembly (Includes 6" Hydrant Lead, 6" Gate Valve, Box & Pad)	5	EA	$ 3,500.00	$ 17,500.00	$ 3,800.00	$ 19,000.00	$ 3,050.00	$ 15,250.00	$ 3,600.00	$ 18,000.00	$ 4,500.00	$ 22,500.00
19	Ductile Iron Fittings*	1,150	LB	$ 6.00	$ 6,900.00	$ 5.00	$ 5,750.00	$ 6.00	$ 6,900.00	$ 6.50	$ 7,475.00	$ 6.00	$ 6,900.00
20	10" x 12" Tapping Sleeve and Valve	1	EA	$ 2,500.00	$ 2,500.00	$ 4,300.00	$ 4,300.00	$ 3,950.00	$ 3,950.00	$ 6,300.00	$ 6,300.00	$ 5,500.00	$ 5,500.00
21	2" Blow Off Valve (Including Box, etc.)	1	EA	$ 2,800.00	$ 2,800.00	$ 1,800.00	$ 1,800.00	$ 950.00	$ 950.00	$ 1,400.00	$ 1,400.00	$ 1,275.00	$ 1,275.00
22	1" Single Water Service Assembly (Including Service Tubing, Bore, Saddle, Corp. Stop, Curb Stop, Meter Box, Meter, etc.)	5	EA	$ 1,500.00	$ 7,500.00	$ 2,000.00	$ 10,000.00	$ 2,500.00	$ 12,500.00	$ 4,050.00	$ 20,250.00	$ 300.00	$ 1,500.00
23	1.25" Single Sewer Service Assembly (Including Service Piping, Bore, Tee, Valve, Valve Box, Check Valve, etc.)	5	EA	$ 1,800.00	$ 9,000.00	$ 1,050.00	$ 5,250.00	$ 6,000.00	$ 30,000.00	$ 9,150.00	$ 45,750.00	$ 300.00	$ 1,500.00
24	Crushed Limeston (#57)*	15	CY	$ 90.00	$ 1,350.00	$ 85.00	$ 1,275.00	$ 75.00	$ 1,125.00	$ 75.00	$ 1,125.00	$ 50.00	$ 750.00
25	Hot Bituminous Pavement (MDOT ST, 9.5 mm mix)(4" Thick)*	80	SY	$ 125.00	$ 10,000.00	$ 90.00	$ 7,200.00	$ 45.00	$ 3,600.00	$ 80.00	$ 6,400.00	$ 55.00	$ 4,400.00
26	Geogrid (Model BS1100)*	40	SY	$ 5.00	$ 200.00	$ 2.00	$ 80.00	$ 9.50	$ 380.00	$ 7.50	$ 300.00	$ 8.00	$ 320.00
27	Silt Fence	850	LF	$ 3.50	$ 2,975.00	$ 2.00	$ 1,700.00	$ 3.00	$ 2,550.00	$ 4.00	$ 3,400.00	$ 1.00	$ 850.00
28	Straw Wattles	50	EA	$ 45.00	$ 2,250.00	$ 40.00	$ 2,000.00	$ 30.00	$ 1,500.00	$ 50.00	$ 2,500.00	$ 15.00	$ 750.00
29	Combination Fertilizer (13-13-13)	150	LBS	$ 3.00	$ 450.00	$ 2.00	$ 300.00	$ 0.50	$ 75.00	$ 1.90	$ 285.00	$ 1.00	$ 150.00
30	Plant Establishment	0.3	AC	$ 2,000.00	$ 600.00	$ 10,000.00	$ 3,000.00	$ 11,500.00	$ 3,450.00	$ 3,650.00	$ 1,095.00	$ 500.00	$ 150.00
31	Solid Sod	50	SY	$ 12.00	$ 600.00	$ 20.00	$ 1,000.00	$ 4.00	$ 200.00	$ 10.00	$ 500.00	$ 7.00	$ 350.00
			TOTAL BID		$ 242,450.00		$ 306,280.00		$ 225,947.50		$ 299,475.00		$ 216,910.00

= Mathematical errors were found in the bid, and the amount shown shows the corrected amount.

SEYMOUR SE ENGINEERING

DURLON R. BRYANT
LICENSED PROFESSIONAL ENGINEER
28742
9/30/19
STATE OF MISSISSIPPI

ROBINSON STILL ROAD WATER AND SEWER
CITY OF GAUTIER, MIISSISSIPPI
CONTRACTOR'S BID TABULATION

Bid Opening: Friday, September 27, 2019, at 2:00 P.M. Central Time
Location: Gautier City Hall, 3330 Highway 90, Gautier, MS 3*9553

Contractor Address City, State	Engineer's Estimate	Jay Bearden Construction Company 662 Old Highway 49 South Richland, MS 39218 09155-MC	Moran Hauling, Inc. 10380 Three Rivers Rd. Gulfport, MS 39503 09083-MC	SCI, Inc. 13520 Old Highway 67 Biloxi, MS 39532 04939-MC	Twin L Construction, Inc. 8292 Firetower Rd. Pass Christian, MS 39571 08365-MC

Item. No.	Description	Quantity	Unit	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
BASE BID													
1	Mobilization	1	LS	$ 22,000.00	$ 22,000.00	$ 16,000.00	$ 16,000.00	$ 14,500.00	$ 14,500.00	$ 11,123.70	$ 11,123.70	$ 17,080.00	$ 17,080.00
2	Clearing and Grubbing	1	LS	$ 2,000.00	$ 2,000.00	$ 15,000.00	$ 15,000.00	$ 7,500.00	$ 7,500.00	$ 3,500.00	$ 3,500.00	$ 7,826.00	$ 7,826.00
3	Connect 2" PVC Sewer Force Main to Exist MH	1	LS	$ 1,100.00	$ 1,100.00	$ 68.68	$ 68.68	$ 3,000.00	$ 3,000.00	$ 600.00	$ 600.00	$ 1,067.00	$ 1,067.00
4	Removal of Pavement (All Types and Thicknesses)	60	SY	$ 7.00	$ 420.00	$ 3.00	$ 180.00	$ 5.40	$ 324.00	$ 5.00	$ 300.00	$ 8.55	$ 513.00
5	Saw Cut Pavement (All Types and Thicknesses)	250	LF	$ 4.50	$ 1,125.00	$ 3.00	$ 750.00	$ 7.15	$ 1,787.50	$ 5.00	$ 1,250.00	$ 9.25	$ 2,312.50
6	Dewaterting**	400	LF	$ 25.00	$ 10,000.00	$ 3.00	$ 1,200.00	$ 8.50	$ 3,400.00	$ 5.00	$ 2,000.00	$ 17.80	$ 7,120.00
7	Undercut Excavation (PM)*	120	CY	$ 13.00	$ 1,560.00	$ 6.00	$ 720.00	$ 10.13	$ 1,215.60	$ 13.00	$ 1,560.00	$ 21.35	$ 2,562.00
8	Select Bedding Material (PM)*	175	CY	$ 18.00	$ 3,150.00	$ 14.00	$ 2,450.00	$ 26.28	$ 4,599.00	$ 13.00	$ 2,275.00	$ 26.35	$ 4,611.25
9	10" Water Main C900 PVC	2,300	LF	$ 28.00	$ 64,400.00	$ 23.74	$ 54,602.00	$ 25.47	$ 58,581.00	$ 34.70	$ 79,810.00	$ 26.70	$ 61,410.00
10	10" Gate Valve with Box and Pad	1	EA	$ 1,800.00	$ 1,800.00	$ 3,540.00	$ 3,540.00	$ 3,650.00	$ 3,650.00	$ 2,033.30	$ 2,033.30	$ 2,990.00	$ 2,990.00
11	Air Release/Vacuum Valve	2	EA	$ 4,400.00	$ 8,800.00	$ 3,345.00	$ 6,690.00	$ 4,650.00	$ 9,300.00	$ 7,160.00	$ 14,320.00	$ 8,538.00	$ 17,076.00
12	1.25" Sched 80 PVC Sewer Force Main	180	LF	$ 14.00	$ 2,520.00	$ 9.17	$ 1,650.60	$ 13.33	$ 2,399.40	$ 8.00	$ 1,440.00	$ 8.55	$ 1,539.00
13	1.5" Sched 80 PVC Sewer Force Main	1,210	LF	$ 16.00	$ 19,360.00	$ 3.10	$ 3,751.00	$ 7.17	$ 8,675.70	$ 8.60	$ 10,406.00	$ 9.25	$ 11,192.50
14	2" Sched 80 PVC Sewer Force Main	1,120	LF	$ 18.00	$ 20,160.00	$ 4.08	$ 4,569.60	$ 8.19	$ 9,172.80	$ 9.10	$ 10,192.00	$ 9.25	$ 10,360.00
15	1.5" HDPE Directional Bored Sewer Force Main (Including all Fittings for Transition)	185	LF	$ 22.00	$ 4,070.00	$ 7.27	$ 1,344.95	$ 16.00	$ 2,960.00	$ 3.10	$ 573.50	$ 21.35	$ 3,949.75
16	2" HDPE Directional Bored Sewer Force Main (Including all Fittings for Transition)	120	LF	$ 28.00	$ 3,360.00	$ 12.84	$ 1,540.80	$ 25.00	$ 3,000.00	$ 27.10	$ 3,252.00	$ 22.80	$ 2,736.00
17	10" HDPE Directional Bored Water Main (Including all Fittings for Transition)	120	LF	$ 100.00	$ 12,000.00	$ 66.95	$ 8,034.00	$ 130.00	$ 15,600.00	$ 104.80	$ 12,576.00	$ 118.00	$ 14,160.00
18	Fire Hydrant Assembly (Includes 6" Hydrant Lead, 6" Gate Valve, Box & Pad)	5	EA	$ 3,500.00	$ 17,500.00	$ 5,821.76	$ 29,108.80	$ 3,556.99	$ 17,784.95	$ 3,924.90	$ 19,624.50	$ 4,553.50	$ 22,767.50
19	Ductile Iron Fittings*	1,150	LB	$ 6.00	$ 6,900.00	$ 13.06	$ 15,019.00	$ 4.24	$ 4,876.00	$ 3.90	$ 4,485.00	$ 10.00	$ 11,500.00
20	10" x 12" Tapping Sleeve and Valve	1	EA	$ 2,500.00	$ 2,500.00	$ 10,117.00	$ 10,117.00	$ 6,000.00	$ 6,000.00	$ 5,038.30	$ 5,038.30	$ 7,542.00	$ 7,542.00
21	2" Blow Off Valve (Including Box, etc.)	1	EA	$ 2,800.00	$ 2,800.00	$ 1,140.00	$ 1,140.00	$ 11,000.00	$ 11,000.00	$ 972.40	$ 972.40	$ 2,134.45	$ 2,134.45
22	1" Single Water Service Assembly (Including Service Tubing, Bore, Saddle, Corp. Stop, Curb Stop, Meter Box, Meter, etc.)	5	EA	$ 1,500.00	$ 7,500.00	$ 1,425.00	$ 7,125.00	$ 4,981.68	$ 24,908.40	$ 2,392.40	$ 11,962.00	$ 1,040.00	$ 5,200.00
23	1.25" Single Sewer Service Assembly (Including Service Piping, Bore, Tee, Valve, Valve Box, Check Valve, etc.)	5	EA	$ 1,800.00	$ 9,000.00	$ 747.04	$ 3,735.20	$ 9,000.00	$ 45,000.00	$ 2,375.10	$ 11,875.50	$ 1,040.00	$ 5,200.00
24	Crushed Limeston (#57)*	15	CY	$ 90.00	$ 1,350.00	$ 80.00	$ 1,200.00	$ 138.00	$ 2,070.00	$ 95.00	$ 1,425.00	$ 107.00	$ 1,605.00
25	Hot Bituminous Pavement (MDOT ST, 9.5 mm mix)(4" Thick)*	80	SY	$ 125.00	$ 10,000.00	$ 33.75	$ 2,700.00	$ 35.75	$ 2,860.00	$ 60.00	$ 4,800.00	$ 85.40	$ 6,832.00
26	Geogrid (Model BS1100)*	40	SY	$ 5.00	$ 200.00	$ 15.00	$ 600.00	$ 9.60	$ 384.00	$ 8.00	$ 320.00	$ 17.10	$ 684.00
27	Silt Fence	850	LF	$ 3.50	$ 2,975.00	$ 1.27	$ 1,079.50	$ 3.94	$ 3,349.00	$ 3.50	$ 2,975.00	$ 6.40	$ 5,440.00
28	Straw Wattles	50	EA	$ 45.00	$ 2,250.00	$ 5.20	$ 260.00	$ 8.00	$ 400.00	$ 5.00	$ 250.00	$ 43.00	$ 2,150.00
29	Combination Fertilizer (13-13-13)	150	LBS	$ 3.00	$ 450.00	$ 1.33	$ 199.50	$ 4.77	$ 715.50	$ 0.80	$ 120.00	$ 1.15	$ 172.50
30	Plant Establishment	0.3	AC	$ 2,000.00	$ 600.00	$ 2,500.00	$ 750.00	$ 4,051.00	$ 1,215.30	$ 3,500.00	$ 1,050.00	$ 7,827.00	$ 2,348.10
31	Solid Sod	50	SY	$ 12.00	$ 600.00	$ 6.00	$ 300.00	$ 11.92	$ 596.00	$ 5.00	$ 250.00	$ 8.55	$ 427.50
			TOTAL BID		**$ 242,450.00**		**$ 195,425.63**		**$ 270,824.15**		**$ 222,359.20**		**$ 242,508.05**

= Mathematical errors were found in the bid, and the amount shown shows the corrected amount.

I HAVE REVIEWED THESE BIDS AND HEREBY CERTIFY THAT THEY ARE ACCURATE

D. R. Bryant

DURLON R. BRYANT, PROJECT ENGINEER

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification.

SUGGESTED FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
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AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General Contractors of America

Construction Specifications Institute

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EJCDC
SUGGESTED FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR FOR
CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between **CITY OF GAUTIER**

(Owner) and **HUDSON CONTRACTING, INCORPORATED**

(Contractor).

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

ROBINSON STILL ROAD
WATER AND SEWER
CITY OF GAUTIER

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Construct an underground water and sewer system, along with all appurtenances, along Robinson Still Road in Gautier, MS

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by

Seymour Engineering
925 Tommy Munro Drive, Suite G
Biloxi, MS 39532

(Engineer), who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

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ARTICLE 4 - CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

A. The Work will be substantially completed within **90** days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within **90** days after the date when the Contract Times commence to run.

4.03 Liquidated Damages - "LIQUIDATED DAMAGES IN THE SUM OF **$250.00** FOR EACH CONSECUTIVE CALENDAR DAY THEREAFTER SHALL BE ASSESSED."

A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **$250.00** for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **$250.00** for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

~~A. For all Work other than Unit Price Work, a Lump Sum of:~~ ~~**N/A**~~

_____ ~~($_____)~~

~~(words)~~ ~~(numerals)~~

~~All specific cash allowances are included in the above price and have been computed in accordance with paragraph 11.02 of the General Conditions.~~

B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 5.01.B:

As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.07 of the General Conditions. Unit prices have been computed as provided in Paragraph 11.03 of the General Conditions.

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UNIT PRICE WORK								
Item No.	Description				Unit	Estimated Quantity	Unit Price	Estimated
	SEE ATTACHED BID SCHEDULE							
	TOTAL OF ALL ESTIMATED PRICES			**TWO HUNDRED AND SIXTEEN THOUSAND, NINE HUNDRED AND TEN DOLLARS AND ZERO CENTS**				**$210,910.00**
				(words)				(numerals)

C. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. Provided that an Application for Payment is received by the Engineer not later than the 20th day of a month, the Owner shall make payment to the Contractor not later than 45 days. If an application for Payment is received by the Engineer after the application date fixed above, payment shall be made by the Owner not later than 60 days after the Engineer receives the Application for Payment All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of 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:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:

a. 90% percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, Owner, on recommendation of Engineer, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage; and

2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95% percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 100% percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

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

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ARTICLE 7 - INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 0 percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.

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

F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

K. The Contractor will name **Seymour Engineering** and the **City of Gautier** as additional insureds on all general liability insurance provided by this Contractor to complete the scope of work in this Agreement. Contractor shall provide a Waiver of Subrogation to **Seymour Engineering** and the **City of Gautier** in respect to workers compensation.

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ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 8, inclusive).

2. Performance bond (pages 1 to 3, inclusive).

3. Payment bond (pages 1 to 3, inclusive).

4. Other bonds (pages _____ to _____, inclusive).

a. _____ (pages _____ to _____, inclusive).

b. _____ (pages _____ to _____, inclusive).

c. _____ (pages _____ to _____, inclusive).

5. General Conditions (pages 1 to 43, inclusive).

6. Supplementary Conditions (pages 1 to 14 inclusive).

7. Specifications as listed in the table of contents of the Project Manual.

8. Drawings consisting of 10 sheets with each sheet bearing the following general title:
Robinson Still Road Water and Sewer (or) the Drawings listed on attached sheet index.

9. Addenda (numbers 1 to 3, inclusive).

10. Exhibits to this Agreement (enumerated as follows):

a. Contractor's Bid (pages 1 to 4, inclusive).

b. Documentation submitted by Contractor prior to Notice of Award (pages _____ to _____, inclusive).

c. _____.

11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

a. Notice to Proceed (pages 1 to 1 inclusive).

b. Work Change Directives.

c. Change Order(s).

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

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ARTICLE 10 - MISCELLANEOUS

10.01 Terms

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

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

10.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Other Provisions

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

This Agreement will be effective on _____, 2019 (which is the Effective Date of the Agreement).

OWNER:

THE CITY OF GAUTIER, MISSISSIPPI

By: **PAULA YANCEY**

Title: **CITY MANAGER**

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

THE CITY OF GAUTIER, MISSISSIPPI

3330 HIGHWAY 90

GAUTIER, MS 39553

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement.)

CONTRACTOR:

HUDSON CONTRACTING, INC.

By: _____

Title: _____

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

License No.: _____
(Where applicable)

Agent for service or process: _____

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

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CITY OF GAUTIER
Business Agenda Item #2
Fact Sheet

Council Meeting:	**November 19, 2019**
Title:	**Authorization to accept bids and authorize the award and execution of a contract with J E Borries, Inc.**
Introduced by:	
Contact Person/Telephone	**April Havens 497-8000 ext. 315**

Summary Explanation: Authorization to accept bids and authorize the award and execution of a contract with J E Borries, Inc. for the Shepard State Park – Marshwalk Pier Project in an amount not to exceed $389,945.00

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract	☐
Minutes	☐
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	**City Manager**

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Second Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Voted as follows:		**Ayes**	**Nays**	**Abstained**	**Absent**
Mayor	**Torjusen**	☐	☐	☐	☐
At Large	**Martin**	☐	☐	☐	☐
Ward 1	**George**	☐	☐	☐	☐
Ward 2	**Jackson**	☐	☐	☐	☐
Ward 3	**Vaughan**	☐	☐	☐	☐
Ward 4	**Anderson**	☐	☐	☐	☐
Ward 5	**Colledge**	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 000-2019

WHEREAS, the City of Gautier has requested bids for the Shepard State Park Marshwalk Pier Project; and

WHEREAS, sealed bids for this project were received from six contractors and were opened on November 6, 2019 at 11:00AM; and

WHEREAS, bids were submitted ranging in total amounts from $389,945.00 to $870,598.00; and

WHEREAS, the lowest and best bidder was J. E. Borries, Inc., with a base bid of $389,945.00; and

WHEREAS, the proper proposal documentation, including bid bond, is in order as required by the contract documents; and

WHEREAS, the Heflin Engineering, the project engineer, has tabulated the bids and recommends awarding the contract to J. E. Borries, Inc. in an amount not to exceed $389,945.00; and

WHEREAS, the Mayor and Members of Council find that it is in the best interests of the City to accept bids and authorize the award and execution of the contract with J. E. Borries, Inc. for the Shepard State Park Marshwalk Pier Project in an amount not to exceed $389,945.00; and

WHEREAS, the Mayor and Council Members hereby find that J. E. Borries, Inc. has submitted the lowest and best bid for the base bid and additive alternative; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the award and execution of a contract with J. E. Borries, Inc., for the Shepard State Park Marshwalk Pier Project is hereby authorized and approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **BLANK** seconded by **BLANK** and the following vote was recorded:

AYES:

NAYS:

_____

MAYOR

ATTEST:

_____

CITY CLERK

BLANK by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

CITY OF GAUTIER
MEMORANDUM

To:	Paula Yancey, City Manager
From:	April Stennett, Grants Administrator
Date:	11/12/2019
Subject:	Authorization to Acknowledge Bids and Award Contract for Shepard State Park Marshwalk Pier

---

REQUEST:

The Grants and Projects Department requests that City Council acknowledge receipt of six bids for the Shepard State Park Marshwalk Pier project and award a contract to the low bidder, J.E. Borries, Inc.

BACKGROUND:

This project includes approximately 1000 feet of pedestrian boardwalk within Shepard State Park, along the marsh on the northwest side of the park. The boardwalk will include educational panels and birdwatching opportunities. The goal of this project is to provide innovative public access opportunities to the general public for recreational purposes. The project is being funded through Tidelands.

DISCUSSION:

Six bids for this project were received and opened Nov. 6, 2019. The bidders were J.E. Borries, Inc., KR Borries, M & D Construction Co., Coastal Painting and General Contractors, Gray Falcon Construction, and Twin L Construction. The low bidder was J.E. Borries, Inc., with a bid of $389,945.

Heflin Engineering has checked the bids and recommends approval.

RECOMMENDATION:

The Grants and Projects Department recommends that City Council acknowledge receipt of six bids for the Shepard State Park Marshwalk Pier project and award a contract to the low bidder, J.E. Borries, Inc.

The City Council may:
1) Acknowledge the bids and award a contract to the low bidder, as presented; or
2) Not acknowledge the bids and not award a contract to the low bidder as presented.

ATTACHMENTS:

1. Business Agenda Item 2 - Acceptance of Bids and Contracts for Shepard State Park Marshwalk Pier Project
2. Recommendation Letter and Bid Tabulation
3. Contract, General Conditions and Supplementary Conditions

HEFLIN ENGINEERING, INC.

CONSULTING ENGINEERS
P. O. Box 47
Brandon, Mississippi 39043-0047
601-824-7569

November 8, 2019

City of Gautier
3330 Highway 90
Gautier, MS 39553

ATTN: Ms. April Stennett, Grants and Projects Director

RE: **Recommendation of Award**
Shepard State Park – Marshwalk Pier

Dear Ms. Stennett:

We are pleased to submit to you our conclusions and recommendations regarding award of the contract for the Shepard State Park – Marshwalk Pier project. Bids were opened at the Gautier City Hall on Wednesday, November 6, 2019 at 11:00 A.M. A copy of the Certified Tabulation of Bids is attached.

Six bids were submitted ranging in total amounts from $389,945.00 to $870,598.00. The low Bidder was J.E. Borries, Inc. with a total bid amount of $389,945.00. The proper proposal documentation, including bid bond, appears to be in order as required by the contract documents.

There were several errors on the bids for the additive/deductive alternate for wood decking in place of light penetrating decking. Those errors and corrections are noted on the certified tabulation of bids. However, these errors do not change the outcome of the low bid in any way. Light penetrating decking (base bid) is superior to wood decking for both maintenance and environmental impact considerations.

Therefore, we recommend that award of the contract for the base bid be made to J.E. Borries, Inc. in the amount of $389,945.00.

Thank you for this opportunity to be of service to you.

Sincerely,

Austin Moore, P.E.
Vice President

Attachment

CITY OF GAUTIER

SHEPARD STATE PARK MARSHWALK PIER

Bid Date: November 6, 2019

Bid Time: 11:00 AM

Bidder:	J.E. Borries, Inc.	KR Borries	M&D Construction Company	Coastal Painting & Gen. Contr.	Gray Falcon Construction	Twin L Construction
Certificate of Responsibility:	09360-MC	06123-SC	05107-MC	08092-MC	22424-MC	08365-MC
Surety:	US Specialty Ins.	US Specialty Ins.	Old Republic Surety Company	RLI Insurance Company	Aegis Security Ins. Co.	Endurance Assurance Corp.

ITEM No.	Qty	Unit	Description	J.E. Borries, Inc. UNIT PRICE	J.E. Borries, Inc. EXTENSION	KR Borries UNIT PRICE	KR Borries EXTENSION	M&D Construction Company UNIT PRICE	M&D Construction Company EXTENSION	Coastal Painting & Gen. Contr. UNIT PRICE	Coastal Painting & Gen. Contr. EXTENSION	Gray Falcon Construction UNIT PRICE	Gray Falcon Construction EXTENSION	Twin L Construction UNIT PRICE	Twin L Construction EXTENSION
1	1	LS	Mobilization, Demobilization	$38,000.00	$ 38,000.00	$ 15,000.00	$ 15,000.00	$ 29,375.00	$ 29,375.00	$ 20,000.00	$ 20,000.00	$ 42,000.00	$ 42,000.00	$ 41,925.00	$ 41,925.00
2	1	LS	Clearing & Grubbing	12,400.00	12,400.00	15,000.00	15,000.00	13,920.00	13,920.00	20,000.00	20,000.00	5,000.00	5,000.00	20,963.00	20,963.00
3	238	EA	Timber Piles	500.00	119,000.00	998.00	237,524.00	464.00	110,432.00	290.00	69,020.00	646.00	153,748.00	960.00	228,480.00
4	1005	LF	Boardwalk Substructure	83.00	83,415.00	81.00	81,405.00	154.28	155,051.40	138.00	138,690.00	204.00	205,020.00	210.00	211,050.00
5	6270	SF	Boardwalk Light Penetrating Decking	9.00	56,430.00	12.00	75,240.00	12.18	76,368.60	25.00	156,750.00	9.00	56,430.00	28.00	175,560.00
6	2040	LF	Boardwalk Handrail w/ SS Cabling (1,020 ft each side)	20.00	40,800.00	15.50	31,620.00	45.24	92,289.60	40.00	81,600.00	36.00	73,440.00	63.00	128,520.00
7	220	EA	Solar Rail Lights	170.00	37,400.00	145.00	31,900.00	174.00	38,280.00	200.00	44,000.00	145.00	31,900.00	280.00	61,600.00
8	1	ALLOW	Interpretive Signage	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00
			TOTAL BASE BID		$389,945.00		$490,189.00		$518,216.60		$532,560.00		$570,038.00		$870,598.00
ADDITIVE/DEDUCTIVE ALTERNATE 1 - WOOD DECKING															
1	5600	SF	Substitute Wood Decking (#1 Grade, 0.8 CCA, 2x8, S4S) in Place of Light Penetrating Decking	($2.70)	(15,120.00)	$9.95	55,720.00	($3.90)	(21,840.00)	$15.00	84,000.00	($3.60)	(20,160.00)	$26.00	145,600.00
			TOTAL ADD (+) OR DEDUCT (-) FROM BASE BID		(15,120.00)		55,720.00		$ (21,840.00)		84,000.00		(20,160.00)		145,600.00

Corrected due to math errors.

AUSTIN M. MOORE
LICENSED PROFESSIONAL
ENGINEER
26441
STATE OF MISSISSIPPI

ENGINEER'S CERTIFICATION

I hereby certify that this tabulation is a true and correct representation of all bids submitted.

Austin Moore
Registered Professional Engineer No.26441
State of Mississippi

AGREEMENT

THIS AGREEMENT, made this_____ day of_____, 20___, by and between_____City of Gautier_____ hereinafter called "Owner" and_____ doing business as a corporation, partnership or individual, hereinafter called "Contractor".

W I T N E S S E T H:

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

1. The Contractor will commence and complete the construction of Shepard State Park – Marshwalk Pier, hereinafter called "Project".

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

3. The Contractor will commence the work required by the Contract Documents within 10 calendar days after the date of the Notice to Proceed and will complete the same within 60 calendar days, unless the period for completion is extended otherwise by the Contract Documents.

4. The Contractor agrees to perform all of the work described in the Contract Documents for the sum of _____ Dollars ($_____).

5. The term "Contract Documents" means and includes the following:
   a. Advertisement for Bids
   b. Information for Bidders
   c. Bid
   d. Bid Bond
   e. Agreement
   f. General Conditions
   g. Supplemental General Conditions
   h. Payment Bond
   i. Performance Bond
   j. Notice to Proceed
   k. Change Order
   l. Notice of Award
   m. Drawings prepared by Heflin Engineering, Inc. and dated September 2019.
   n. Specifications prepare or issued by Heflin Engineering, Inc., dated September 2019.
   o. Addenda:
      No._____dated_____, 20___.
      No._____dated_____, 20___.

6. The Owner will pay the Contractor in the manner and atsuch times as set forth in the General Conditions such amounts as required by the Contract Documents.

7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in 5 copies, each of which shall be deemed an original on the date first above written.

CONTRACTOR	**OWNER**
_____	City of Gautier
By:_____	By:_____
Name:_____ (Please type or print)	Name:_____ (Please type or print)
Title:_____	Title:_____
Address:_____	Address:_____
_____	_____
(S E A L)	(S E A L)
ATTEST:_____	Attest:_____
Name:_____ (Please type or print)	Name:_____ (Please type or print)
Title:_____	Title:_____

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 Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

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These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 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 Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

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 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 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.

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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.

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.

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

37. *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.

38. *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.

39. *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.

40. *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.

41. *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

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furnished by Owner which are designated for the use of Contractor.

42. *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.

43. *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.

44. *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.

45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.

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

47. *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 Subcontractor.

48. *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.

49. *Unit Price Work*—Work to be paid for on the basis of unit prices.

50. *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.

51. *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 words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated 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 information in the Contract Documents and with the design concept of the 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:*

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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 that 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

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

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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; Designation of Authorized Representatives*

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.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

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

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 reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated 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, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, 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:

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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 discovers, or has actual knowledge of, 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 (a) any applicable Law or Regulation , (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then 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 had actual knowledge 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, or code, or the instruction of any Supplier (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 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 its *consultants*, including electronic media editions; or

2. reuse any 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 adaptation by Engineer.

B. The prohibitions 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. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by 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

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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

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 known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the 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 officers, directors, members, partners, employees, agents, consultants, or subcontractors 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 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

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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, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall 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 provided by others; 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

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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:* The Supplementary Conditions identify those reports and *drawings* known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the 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 officers, directors, members, partners, employees, agents, consultants, or subcontractors 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. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

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 written notice to Contractor: (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.

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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, members, 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, members, 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

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 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 or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

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 and loss payee identified

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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 and loss payee 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.

C. Failure of Owner to demand such certificates or other evidence of *Contractor's* full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect *Contractor*.

E. The insurance *and* insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

A. Contractor shall purchase and maintain such 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, be written on an occurrence basis, include as additional insureds (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, members, 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 contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

4. 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);

5. 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

6. include completed operations coverage:

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a. Such insurance shall remain in effect for two years after final payment.

b. 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, members, 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 a loss payee;

2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, 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 that 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 loss payee to whom a certificate of insurance has been issued.

B. Owner shall purchase and maintain such equipment breakdown 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, members, 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 a loss payee.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this 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 loss payee 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 this *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

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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 as loss payees (and the officers, directors, members, 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 loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, 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 as loss payees (and the officers, directors, members, 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, members, 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, members, 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 loss payees, 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

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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

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.

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.

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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; and

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

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 if 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 by 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 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 incorporation or use of the proposed substitute item in connection

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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; and

4) 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 a Change Order in the case of a substitute and 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 so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable 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

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2. shall 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 a loss payee 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, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, 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, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors 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 specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, 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

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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 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, members, 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. Such responsibility does not relieve Subcontractors of their

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responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. 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. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

D. Contractor shall inform Owner and Engineer of the specific *requirements* of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. 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 Drawings or Specifications or to the acts or omissions of Owner or Engineer 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).

F. 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 accepted 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,

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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:

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:

a. 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;

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

c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

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

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 Drawings 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.

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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 officers, directors, members, partners, employees, agents, consultants, and subcontractors 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, members, 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 officers, directors, members, partners, employees, agents, consultants, or subcontractors 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, members, 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.

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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.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or through 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, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and 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 such work; provided, however, that Contractor may cut or alter others' 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

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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 wrongful actions or inactions.

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

ARTICLE 8 – OWNER'S RESPONSIBILITIES

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 with respect to 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 relating to existing surface or subsurface structures at the Site.

8.06 *Insurance*

A. Owner's responsibilities, if any, with 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 with 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. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

8.12 *Compliance with Safety Program*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed pursuant to Paragraph 6.13.D.

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ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

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.

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

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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 believes 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.

9.10 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

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).

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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.D.

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 the provisions of any bond require notice to be given to a surety 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), 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 Times 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.

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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

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 not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:

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 on the Work. 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, as imposed by Laws and Regulations.

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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, express and courier services, 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, expediters, 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.

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

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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 to 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 Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at

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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 their officers, directors, members, partners, employees, agents, consultants, or subcontractors 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

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. 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, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's

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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 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, Contractor shall, if requested by Engineer, uncover such Work 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.

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13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of written 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 for 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

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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

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 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:

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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, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and 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. 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

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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 remedies the reasons for such action.

3. Upon a subsequent determination 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 and subject to interest as provided in the Agreement.

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 remove its property and 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, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D 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.

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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.6;

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 might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, 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

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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

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 repeated 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.

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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

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

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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 the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

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*.

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SUPPLEMENTARY CONDITIONS
OF THE
CONSTRUCTION CONTRACT

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SUPPLEMENTARY CONDITIONS

Prepared for the City of Gautier

GENERAL

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. C-700, 2007 Edition) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the same meanings stated below, which are applicable to both the singular and plural thereof.

The Contractor's attention is directed to Division 1, GENERAL REQUIREMENTS, which contains other directions pertinent to the project.

SPECIFIC COMMENTS

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

SC-1.01.A.19. *Engineer* -- ADD the following language at the end of the last sentence in Paragraph 1.01.A.19:

Wherever in these Contract Documents the word "Engineer" or "E/A" or "A/E" appears, it shall be understood to mean the Engineer, Heflin Engineering, Inc., and their authorized representatives, acting either directly or indirectly as authorized agents of the Owner.

SC-1.01.A.29. *Owner* -- ADD the following language at the end of the last sentence in Paragraph 1.01.A.29:

Whenever in these Contract Documents the word "Owner" appears, it shall be understood to mean the City of Gautier acting by and through their official minutes, and their authorized representatives.

SC-1.01.A.44. *Substantial Completion* – AMEND the language in the first sentence of Paragraph 1.01.A.44 to read as follows:

CHANGE the language from “in the opinion of Engineer,” to “in the opinion of the Engineer and Owner,”

ARTICLE 2 – PRELIMINARY MATTERS

SC-2.01.B *Evidence of Insurance* DELETE Paragraphs and 2.01.B in its entirety and INSERT the following in its place:

B. Before any Work at the Site is started, Contractor shall deliver to Owner, 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 is required to purchase and maintain in accordance with Article 5.

SC-2.02 *Copies of Documents* AMEND the language in the first sentence in Paragraph 2.02.A to read as follows:

CHANGE the language from “up to ten” to “up to three unless otherwise noted in Article 4”.

SC-2.03 *Commencement of Contract Times; Notice to Proceed* DELETE the last sentence in its entirety.

SC-2.06.B *Preconstruction Conference; Designation of Authorized Representative* AMEND the language in the second sentence in Paragraph 2.06.B to read as follows:

"Contractor's representative shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of Contractor. Owner's representative is authorized to act as a liaison with respect to the Project."

SC-2.07 ***Initial Acceptance of Schedules*** ADD the following new language at the end of Paragraph 2.07.A.2:

The requirements for specification Section 01300 - Submittals During Construction shall also be met prior to accepting the Schedule of Submittals.

SC-2.08 ***Narrative Report Outline*** ADD the following new paragraph immediately following Paragraph 2.07:

SC-2.08 A narrative report as outlined in Specification section 01311 shall be required and shall accompany all Payment Applications prior to approval.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

SC-3.03.A ***Reporting Discrepancies*** Add this sentence to the end of Paragraph 3.03A.1:

1. Even though Contractor is required to notify Engineer as to possible quantity differences, there shall be no price adjustment given to the Contractor as a result of any variation between the estimated quantities and the actual quantities necessary to complete the required work.

SC-3.03.B ***Resolving Discrepancies*** ADD the following new language at the end of this section:

c. Whenever the Contract Documents contain contradictions or discrepancies within the document, the most costly means or method shall be applied.

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

SC-4.01.A ***Availability of Lands*** DELETE the last sentence.

SC-4.01.B ***Availability of Lands*** DELETE this paragraph in its entirety.

SC-4.02 ***Subsurface and Physical Conditions*** DELETE Paragraph 4.02.A and Paragraph 4.02.B in their entirety and REPLACE 4.02A.1and 4.02B.1 with the following:

A.1. Subsurface data known to Owner at the time of considering said project may have changed as a result of weather conditions, regular marine traffic, incidental work within the area, expansion of marsh grasses and submerged aquatic vegetations, etc. Any such change or a combination of change could present different conditions thus have an impact on the quantity of dredge material necessary to complete the required work and comply with all permit requirements.

B.1. Technical data is advisory only and Contractor is solely responsible for the accuracy of any data used for their field assessment and evaluation of site conditions of required work to be completed.

SC-4.02.C ***Site Surveys*** ADD the following new paragraph immediately after Paragraph 4.02.B:

C. *Site Surveys:* Site survey information has been compiled from past records and limited field investigations and although stated with as much accuracy as possible, may contain errors or discrepancies. Contractor shall perform investigations as necessary to accomplish the Work. Any unknown item encountered that impacts the Work shall be handled under Article 4.03.

SC-4.03.C.1 ***Possible Price and Times Adjustments*** DELETE Paragraph 4.03C Possible Price and Times Adjustments in its entirety and REPLACE with the following:

4.03C. Contractor may only be entitled to an adjustment in price or time due to abnormal weather conditions or other conditions when such claim is validated by Engineer. However, Contractor will not be entitled to increase in price due to any variations in estimated to completed dredge quantities.

SC-4.04.B.2 ***Underground Facilities; Not Shown or Indicated*** AMEND the language in the second sentence of paragraph 4.04.B.2 to read as follows:

CHANGE the language from "An equitable adjustment shall be made in the Contract Price…" to "An equitable adjustment may be made in the Contract Price…".

SC-4.05 ***Reference Points*** AMEND the language in the second sentence of Paragraph 4.05.A to read as follows:

CHANGE the language from "without prior written approval of Owner" to "without prior written approval of Owner and Engineer".

SC-4.06 ***Hazardous Environmental Conditions at Site*** DELETE Paragraphs 4.06.A and 4.06.B in their entirety and INSERT the following in their place:

A. No reports or drawings of hazardous conditions at the site are known to the Owner or Engineer.

B. Not used.

SC-4.06.G ***Hazardous Environmental Conditions at Site*** **DELETE Paragraphs 4.06.G in its entirety.**

SC-4.07 ***Site Investigation and Representation*** ADD the following new paragraph immediately after Paragraph 4.06:

SC-4.07 *Site Investigation and Representation*

The Contractor acknowledges that he has satisfied himself as to the nature and location of the Work; the general and local conditions, particularly those bearing upon availability of transportation, disposal, handling and storage of materials; availability of labor, water, electric power, and roads; uncertainties of weather, river stages, or similar physical conditions at the site; the conformation and conditions of the ground; the character of equipment and facilities needed preliminary to and during the prosecution of the work; and all other matters which can in any affect the Work or the cost thereof under this Contract. The Contractor further acknowledges subject to conditions in Section 4.02 that he has satisfied himself as to the character, quality, and quantity of surface and subsurface materials and groundwater to be encountered from inspecting the site. Any failure by the Contractor to acquaint himself with all the available information will not relieve him from responsibility for properly estimating the difficulty or cost of successfully performing the Work. Neither the Owner nor the Engineer assumes responsibility for any conclusion or interpretation made by the Contractor.

ARTICLE 5 – BONDS AND INSURANCE

SC-5.03.B ***Certificates of Insurance*** DELETE Paragraph 5.03.B in its entirety.

SC-5.03 ***Certificates of Insurance*** ADD the following new paragraph immediately after Paragraph 5.03.E:

F. The Contractor shall be required to submit a Certificate of Insurance with every pay application; or, no later than every thirty (30) days for the term of Contract. If an approved Certificate of Insurance is not included with the pay application, then it will be considered non-compliant with the Contract Documents and returned to the Contractor.

SC-5.04 ***Contractor's Liability Insurance*** ADD the following new paragraph immediately after Paragraph 5.04.B:

C. The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverages for not less than the following amounts or greater where required by Laws and Regulations:

1. Worker's Compensation, and related coverage under Paragraph 5.04.A.1 and A.2 of the General Conditions:

   a. Statutory

   b. Applicable Federal: Statutory (e.g. Longshoreman's)

   c. Employer's Liability: $100,000 or Statutory

2. Contractor's General Liability under Paragraph 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:

   a. General Aggregate: $ 1,000,000.00

   b. Products- Completed Operations Aggregate $ 1,000,000.00

   c. Personal and Advertising Injury $ 1,000,000.00

   d. Each Occurrence (Bodily Injury and Property Damage) $ 1,000,000.00

   e. Property Damage liability insurance will provide Explosion, Collapse and Under-ground coverages where applicable.

   f. Excess or Umbrella Liability

      1) General Aggregate $ 1,000,000.00

      2) Each Occurrence $ 1,000,000.00

3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:

   a. Bodily Injury:

      Each Person $ 1,000,000.00

      Each Accident $ 1,000,000.00

   b. Property Damage:

      Each Accident $ 1,000,000.00

   c. Combined Single:

      Limit of $ 1,000,000.00

4. The Contractual Liability coverage required by Paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following:

a. Bodily Injury:

Each Person	$ 1,000,000.00

b. Property Damage:

Each Accident	$ 1,000,000.00
Annual Aggregate	$ 1,000,000.00

5. The list of names, other persons, or entities to be included on the policy as additional insured are as per Paragraph 5.11.

SC-5.06.A Property *Insurance* DELETE Paragraph 5.06.A in its entirety and INSERT the following in its place:

A. When available, Contractor shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof.

1. This insurance shall:

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

b. in addition to the individuals and entities specified, include additional insured per Paragraph 5.11.

c. 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 and damage to the Work, temporary buildings, falsework, 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 that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

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

e. 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;

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

g. include testing and start up; and

h. 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.

2. Contractor shall be responsible for any deductible or self-insured retention.

3. The policies of insurance required to be purchased and maintained by Contractor in accordance with this Paragraph SC-5.06.A shall comply with the requirements of paragraph 5.06.C of the General Conditions.

SC-5.06.B DELETE this article in its entirety.

SC-5.06.E DELETE this Paragraph in its entirety.

SC-5.07.A *Waiver of Rights* DELETE the third and fourth sentences in their entirety.

SC-5.07.B DELETE this Paragraph in its entirety.

SC-5.11 *Additional Insured* ADD the following new paragraph immediately after Paragraph 5.10.

SC- 5.11 *Additional Insured*

A. Where applicable, all insurance policies shall name the Owner and Engineer as herein before defined as additional insured.

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITY

SC-6.06 *Concerning Subcontractor's, Suppliers, and Others* ADD a new paragraph immediately after Paragraph 6.06.G:

H. Owner or Engineer may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on Work performed for Contractor by a particular Subcontractor or Supplier.

SC-6.07.B *Patent Fees and Royalties* DELETE this paragraph in its entirety.

SC-6.12 *Record Documents* ADD a new paragraph immediately after Paragraph 6.12.A:

B. Owner may withhold progress payments until record documents are properly updated. Final payment may not be made until all record documents are accepted in writing by Owner.

SC-6.17 *Shop Drawings and Samples* ADD the following new paragraphs immediately after Paragraph 6.17.E:

F. Contractor shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing subsequent submittals of Shop Drawings, samples or other items requiring approval and Contractor shall reimburse Owner for Engineer's charges for such time.

G. In the event that Contractor requests a substitution for a previously approved item, Contractor shall reimburse Owner for Engineer's charges for such time unless the need for such substitution is beyond the control of Contractor.

SC-6.19 *Contractor's General Warranty ~~Warrantee~~ and Guarantee* ADD the following new paragraph immediately after Paragraph 6.19.C:

D. Unless additional warranties are included in the technical specifications, the Contractor shall guarantee all Work for a period of one-year following Substantial Completion.

SC-6.20 *Indemnification* DELETE this article in its entirety and INSERT the following in its place:

A. Contractor shall defend, indemnify and hold harmless Owner and Engineer, their agents, servants, employees, officers, directors, members, partners, successors and assigns from actions, causes, suits, costs, claims, damages, expenses and demands whatsoever in law or in equity, (including but not limited to all fees and charges of engineers, architects, and attorneys and all court or other dispute resolution costs), with

respect to, or on account of, any injury, including bodily injury, disability or death, or damages to property, including loss of the use thereof, in any way attributable to or in connection with performance of the Contractor under this Contract.

ARTICLE 7 – OTHER WORK AT SITE

SC-7.04 ***Claims Between Contractors*** ADD a new paragraph immediately after Paragraph 7.03:

SC-7.04 *Claims Between Contractors*

A. Should Contractor cause damage to the work or property of any other contractor at the Site, or should any claim arising out of Contractor's performance of the Work at the Site be made by any other contractor against Contractor, Owner, Engineer, or the construction coordinator, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute by arbitration or at law.

B. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner, Engineer, the construction coordinator and the officers, directors, partners, employees, agents and other consultants and subcontractors of each and any of them from and against all claims, costs, losses and damages (including, but not limited to, fees and charges of engineers, architects, attorneys, and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any other contractor against Owner, Engineer, Engineer's Consultants, or the construction coordinator to the extent said claim is based on or arises out of Contractor's performance of the Work. Should another contractor cause damage to the Work or property of Contractor or should the performance of work by any other contractor at the Site give rise to any other Claim, Contractor shall not institute any action, legal or equitable, against Owner, Engineer, or the construction coordinator or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from Owner, Engineer, or the construction coordinator on account of any such damage or Claim.

C. If Contractor is delayed at any time in performing or furnishing Work by any act or neglect of another contractor, and Owner and Contractor are unable to agree as to the extent of any adjustment in Contract Times attributable thereto, Contractor may make a Claim for an extension of times in accordance with Article 12. An extension of the Contract Times shall be Contractor's exclusive remedy with respect to Owner, Engineer, and construction coordinator for any delay, disruption, interference, or hindrance caused by any other contractor. This paragraph does not prevent recovery from Owner, Engineer, or construction coordinator for activities that are their respective responsibilities.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

SC-8.02 ***Replacement of Engineer*** AMEND the language of Paragraph 8.02.A to read as follows: INSERT "resignation or" immediately before "termination". DELETE "to whom Contractor makes no reasonable objection,".

SC-8.11 ***Evidence of Financial Arrangements*** Add the following new paragraph immediately after Paragraph 8.11.A:

B. On request of Contractor prior to the execution of any Change Order involving a significant increase in the Contract Price, Owner shall furnish to Contractor reasonable evidence that adequate financial arrangements have been made by Owner to enable Owner to fulfil the increased financial obligations to be undertaken by Owner as a result of such Change Order.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

SC-9.03 ***Project Representative*** AMEND the language in the second sentence of Paragraph 9.03.A to read as follows:

DELETE the language "the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in".

SC-9.07A *Determination for Unit Price Work* AMEND the language in the first sentence of Paragraph 9.07 to read as follows:

"Engineer will determine the actual quantities and classifications of completed Unit Price Work performed by Contractor."

SC-9.08.B *Decisions on Requirements of Contract Documents and Acceptability of Work* AMEND the language in the first sentence of Paragraph 9.08.B to read as follows:

"Engineer will, with reasonable promptness, render a written recommendation or decision on the issue referred."

SC-9.08.B *Decisions on Requirements of Contract Documents and Acceptability of Work* AMEND the language in the last sentence of Paragraph 9.08.B to read as follows:

"The date of the Engineer's recommendation / decision shall be the date it is rendered in writing and provided to both parties."

SC-9.08.C *Decisions on Requirements of Contract Documents and Acceptability of Work* DELETE Paragraph 9.08.C in its entirety and INSERT the following in its place:

"Engineers written recommendation or decision on the issue referred is subject to the provision of Paragraph 10.05."

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

C-10.05.A *Engineer's Decision Required* DELETE the last sentence of Paragraph 10.05.A.

SC-10.05.C Item 1, REPLACE "deny" with "recommend denial of". Item 2, REPLACE "approve" with "recommend approval of".

SC-10.05.E DELETE Paragraph 10.05.E in its entirety and INSERT the following in its place:

"Owner or Contractor may invoke dispute resolution in Article 16 within 30 days of the engineer's recommendation of denial or approval."

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

SC-11.03.B Amend the language in the second sentence of Paragraph 11.03.B as follows:

"*Determinations* of actual quantities and classifications of completed Unit Price Work performed by the Contractor will be made by Engineer subject to the provisions of Paragraph 9.07."

SC-11.03.D DELETE Paragraph 11.03.D in its entirety and INSERT the following in its place:

D. There shall be no increase in price due to a variation in actual dredge quantities from the estimated quantities and any variation shall be the sole responsibility of Contractor in formulation of his bid and shall include any possible variations from estimate.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT ITEMS

No Comment.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTIONS, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

SC-13.03.A ADD the following new sentence immediately after the first sentence of Paragraph 13.03.A:

Timely notice shall be as stated in the appropriate specification and no less than 24 hours prior to scheduling the Work.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

SC-14.02.A.1 ***Application for Payments*** AMEND the language in the first sentence of Paragraph 14.02.A.1 to read as follows:

CHANGE the language from "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 an accompanied by such supporting documentation as is required by the Contract Documents. " to "On or before the 20th day of each month, Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed by the 15th of that month, accompanied by such supporting documentation as is required by the Contract Documents."

SC-14.02.A.3 ***Application for Payments*** DELETE Paragraph 14.02.A.3 in its entirety and INSERT the following in its place:

3. The Owner will retain 10% of the amount of each estimate until final completion of the project. On monthly estimates subsequent to the first estimate submitted that includes invoices for stored materials for which payment to the Contractor has been made, there shall be a signed statement that the invoices have been paid by the Contractor.

   The statement shall read as follows:

   This is to certify that payment has been made for invoiced materials included in previous monthly estimate no._____ thru _____.

   Signed: _____

   In the event that such statement is not furnished or the manufacturers or material suppliers notify the Owner in writing that they have not been paid for materials included on previous estimates, the Owner may reduce payment in accordance with Paragraph 14.02.

SC-14.02.C ***Payment Becomes Due*** AMEND the language in the first sentence of Paragraph 14.02.C.1 to read as follows:

CHANGE the language from "Ten days after presentation of the Application for Payment to Owner," to "Ten days after approval of the Application for Payment by Owner".

SC-14.07.C.1 ***Payment Becomes Due*** AMEND the language in the first sentence of Paragraph 14.07.C.1 to read as follows:

CHANGE the language from "Thirty days" to "Sixty days"

SC-14.09.A.1 ***Waiver of Claims*** DELETE this article in its entirety.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

No comment.

SC-15.02.C ***Owner May Terminate for Cause*** DELETE the second sentence of Paragraph 15.02.C.

SC-15.02.D DELETE in its entirety.

SC-15.02.F DELETE in its entirety and REPLACE with: "The termination provisions of the Standard General Conditions of the Construction Contract and the Supplementary Conditions of the Construction Contract shall supercede the termination procedures of any performance bond provided under the provisions of paragraph 5.01A."

ARTICLE 16 – DISPUTE RESOLUTION

SC-16.01 Delete Paragraph 16.01 in its entirety and insert the following in its place:

SC-16.01 Meet to Confer and Negotiate

A. Within 30 days of notice of Engineers recommended action under 10.05C3 or 10.05D, Owner or Contractor may give to the other party written notice of intent to submit the Claim to a process of bilateral negotiations as set forth below

B. Within 30 days of the delivery of such notice, Owner and Contractor shall meet and confer regarding the Claim. A good-faith effort to negotiate resolution shall be made by both parties.

C. If the negotiations contemplated by Paragraph SC-16.01.B are unsuccessful, management representatives of Owner and Contractor at least one tier above the individuals who met under SC16.01.B shall meet, confer, and negotiate within 30 days of the closure of the unsuccessful negotiations.

D. If the Claim is not resolved by negotiation, Engineer's action under Paragraph 10.05C or a denial pursuant to Paragraphs 10.05C3 or 10.05D may be submitted to a court of competent jurisdiction to be determined or the parties may agree to submit the claim to another dispute resolution process

E. Nothing in this article shall be deemed to prohibit or interfere with the rights of the parties to file a court action where necessary to preserve their rights to proceed with litigation.

ARTICLE 17 – MISCELLANEOUS

SC-17.05 ***Controlling Law*** DELETE Paragraph 17.05.A in its entirety and INSERT the following in its place:

A. The terms and conditions of this Contract shall be construed and interpreted under, and all respective rights and duties shall be governed by, the laws of the State of Mississippi. Wherever applicable, each provision of these Contract Documents shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of these Contract Documents shall be prohibited by or invalid under applicable law, such provisions shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of these Contract Documents.

B. This Contract shall not be construed more strictly against one party than the other merely by virtue of the fact that it may have been prepared by one of the parties.

CITY OF GAUTIER
Business Agenda Item #3
Fact Sheet

Council Meeting:	**November 19, 2019**
Title:	**Consideration of a Special Exception Permit that would allow a Mobile Home in a C-3, Highway Commercial Zoning District (GPC 19-19-SE).**
Introduced by:	
Contact Person/Telephone	**Scott Ankerson 497-8000 ext. 312**

Summary Explanation: Consideration of a request from John W. Mallet, Jr. for a Special Exception Permit that would allow a Mobile Home in a C-3, Highway Commercial Zoning District, at 5401 Campbell Road, PID #85298055.000. The application fee of $250 was paid on September 17, 2019. All public notice requirements have been met.

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract	☐
Minutes	☐
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	**City Manager**

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Second Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Voted as follows:		**Ayes**	**Nays**	**Abstained**	**Absent**
Mayor	**Torjusen**	☐	☐	☐	☐
At Large	**Martin**	☐	☐	☐	☐
Ward 1	**George**	☐	☐	☐	☐
Ward 2	**Jackson**	☐	☐	☐	☐
Ward 3	**Vaughan**	☐	☐	☐	☐
Ward 4	**Anderson**	☐	☐	☐	☐
Ward 5	**Colledge**	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 000-2019

CITY OF GAUTIER
SPECIAL EXCEPTION PERMIT
GPC CASE NO. 19-19-SE
5401 CAMPBELL ROAD – MOBILE HOME IN A C-3, HIGHWAY COMMERCIAL ZONING DISTRICT
REGARDING PARCEL ID NO: 85298055.000

WHEREAS, an application for a Special Exception Permit that would allow for a Mobile Home in a C-3, Highway Commercial Zoning District was submitted by John W. Mallet, Jr.; and

WHEREAS, the parcel subject to this Permit is located at 5401 Campbell Road in Gautier, Mississippi; and

WHEREAS, after due public notice, Planning Commission, at its November 7, 2019 meeting, held a public hearing on this matter; and

WHEREAS, the Planning Commission considered testimony and exhibits presented by the applicant, the report of the City Staff and all relevant evidence, and recommended approval of such a permit; and

WHEREAS, the City Council has considered testimony and exhibits presented by the applicant, the report of the City Staff, and all relevant evidence, in addition to the favorable recommendation from Planning Commission; and

WHEREAS, the City Council hereby finds that the proposed Special Exception will be in harmony with the purpose and intent of the Unified Development Ordinance; and will not be injurious to the neighborhood or the general welfare; and

WHEREAS, the City Council hereby finds that the proposed Special Exception is consistent with the character of the immediate vicinity of the proposed use; and

WHEREAS, the City Council hereby finds that all relevant criteria in the Unified Development Ordinance have been met to approve a Special Exception Permit; and

WHEREAS, the City Council hereby finds that the proposed use, classified as a Mobile Home, requires a Special Exception Permit in the C-3 Highway Zoning District.

IT IS THEREFORE ORDERED that the Mayor and City Council accepts the recommendation of the Planning Commission and approves the application submitted by John W. Mallett on November 7, 2019 for a Special Exception

Permit.

IT IS FURTHER ORDERED that the specific conditions required for the permit to be issued are as follows: a 25’ rear setback, a 50’ front setback and a 20’ side setback for the primary structure and a 10’ side setback and a 5’ rear setback on accessory structures.

IT IS FURTHER ORDERED that the Planning Department shall have this permit on file and provide the applicant a copy of the permit.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by **BLANK** seconded by **BLANK** and the following vote was recorded:

AYES:

NAYS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

BLANK by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: Babs Logan, Planning Technician
Date: 11/13/2019
Subject: Consider Special Exception for Mobile Home in a C-3 (GPC 19-19-SE)

REQUEST:

The Planning Department has received a request from John W. Mallett, Jr. for a Special Exception Permit that would allow a Mobile Home in a C-3, Highway Commercial Zoning District, at 5401 Campbell Road, PID#85298055.000. The application fee of $250 was paid on September 17, 2019. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-3 Highway Commercial.

Location: 5401 Campbell Road (See Exhibit A)

General features of the proposed project:
Mobile Home: 28' x 66' (1848 square feet)
Site Size: .30 Acres

Potable Water and Wastewater Services: Existing from City

Current Zoning (See Exhibit B): C-3 Highway Commercial.

Current Surrounding Zoning (See Exhibit B): C-3 Highway Commercial, and AG Agricultural.

Current Surrounding Existing Land Use (See Exhibit C): Mobile Home and Vacant.

Comprehensive Plan Future Land Use Designation (See Exhibit D): Regional Scale Commercial

DISCUSSION:

The following addresses the review criteria for a Special Exception outlined in Section 4.16.4 of the UDO.

Explain how a literal interpretation of the City of Gautier's Unified Development Ordinance would deprive the applicant of rights commonly enjoyed by others of the district in which the property is located, and would work unnecessary hardship upon the applicant?

Applicant:Due to this area with other mobile homes in this area, I see no problem with me moving my mobile home on this property to be close to my family and raise a family of my own. This has been a wish of my stepdad for thirty years. His two other sons are right behind him. We are a very close family and want to keep it that way. Family is the key to success. I will make this property beautiful.

Staff Finding:This area was annexed into the City in 2002. Prior to the annexation, this area was zoned Agricultural.The applicant states that the property was bought prior to the zoning change and that it was bought with the intent to place a mobile home on it for family use at a later date. There are other mobile homes in the immediate vicinity and no businesses in that area. Staff finds that denying the proposed use would deprive the applicant of the rights commonly enjoyed by others in the area.

Explain how the requested Special Exception will be in harmony with the purpose of the City of Gautier's Unified Development Ordinance and will not be injurious to the neighborhood or the general welfare?

Applicant Response:We are right in sync with that area. There are other mobile homes in the area already. The neighbors do not have a problem with mobile homes in the area. There was a mobile home on this property since 1958, so I see no problem with it.
Staff Finding:There are currently mobile homes in the immediate vicinity of the proposed site of the Special Exception. Staff's opinion is that approval of the request will not negatively affect the neighborhood.

Explain how the special circumstances requiring the proposed Special Exception are not results of actions of the applicant.

Applicant Response:When these plans were made years ago this land was county. Then it was annexed. My stepdad has had a vision to let his sons live there. He married my mom and gave me this property so I can raise my two sons and be close to my mother.

Staff Finding: There is no evidence to indicate that special circumstances requiring the Special Exception were results of the action of the applicant. Staff finds that the Special Exception will not negatively affect the surrounding area, or cause a detriment to the surrounding properties.

DETERMINATION OF APPLICABLE LAW:

The UDO defines a Special Exception as a relaxation of the terms of the Unified Development Ordinance where such an exception will not be contrary to the public interest, and where, owing to conditions peculiar to the property, a literal enforcement of the ordinance would result in undue hardship. Special Exceptions are necessary when an applicant seeks to establish or expand a use not ordinarily permitted in a specific zoning district. "Special Exceptions" are not transferable from one (1) owner of land to another.

Special Exception requires a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).

Once an application for a Special Exception is submitted to the Planning Department, the procedures outlined in UDO Section 4.14.1 will be followed. At the appropriate time, The Planning Commission will conduct a public hearing to determine whether the applicant meets all relevant criteria, and make a recommendation to City Council pursuant to UDO Section 4.14.4. City Council, pursuant to UDO Section 4.14.4(C), will then consider the matter at its next regularly scheduled meeting and approve or deny the Special Exception.

A Special Exception is required for uses not ordinarily permitted in a specific zoning district. Special Exceptions are not permitted by right, and may only be granted when certain criteria are established. (4.16.4) Special Exceptions do not run with the land, and may be revoked by the Planning Department if any of the following circumstances are discovered:
The property changes ownership
The property is being utilized in a manner not permitted under the zoning regulations or the special exception;

or
The property ceases to be used for the purpose allowed in the Special Exception for a period of one hundred eighty (180) days during the existence of the Special Exception.

RECOMMENDATION:

The Planning Commission finds that the Special Exception proposed use will be compatible and harmonious with the area and recommends approval with the following conditions: require a 25' rear setback, a 50' front setback and a 20' side setback and at least a 5' rear setback on accessory structures.

The Council may:

Approve the Special Exception;
Approve the Special Exception with changes; or
Deny the Special Exception.

ATTACHMENTS:

1. Combined 19-19-SE
2. Excerpt GPC Meeting 11.7.19

Gautier Planning Commission

Regular Meeting Agenda

November 7, 2019

GPC #19-19-SE

John W. Mallett, Jr.

5401 Campbell Road

VII. NEW BUSINESS

1. Request by John W. Mallett, Jr. for a SPECIAL EXCEPTION PERMIT to place a mobile home at 5401 Campbell Road PID# 85298055.000 located in a C-3, Highway Commercial, Zoning District (GPC CASE #19-19-SE)

GAUTIER PUBLIC HEARING PROCESS (PLANNING COMMISSION)

Planning Commission Chairman to follow procedure below. All questions/comments to be directed to the Council and not to applicant, staff, or other attendees of the meeting.

1. Chairman announces the case.

2. Chairman makes statement, "This is a Public Hearing and all statements to be made need to be true and accurate for the record."

3. Staff gives brief overview of case.

4. Applicant presents their case.

5. Anyone to speak in support of the Request? Please state your name and address for the record.

6. Anyone to speak in opposition of the Request? Please state your name and address for the record.

7. Any final comments from the applicant?

8. Questions from Commission?

9. Chairman closes public hearing – "This closes the Public Hearing portion of this case" bang of gavel

10. Motion/Deliberation/Vote

CITY OF GAUTIER
STAFF REPORT

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: October 8, 2019

Subject: Special Exception Permit for Placement of a Mobile Home at 5401 Campbell Road, PID #85298055.000 in a C-3 Highway Commercial District (GPC Case No. 19-19-SE)

REQUEST:

The Planning Department has received a request from John W. Mallett, Jr. for a Special Exception Permit that would allow a Mobile Home in a C-3, Highway Commercial Zoning District, at 5401 Campbell Road, PID#85298055.000. The application fee of $250 was paid on September 17, 2019. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-3 Highway Commercial.

1. Location: 5401 Campbell Road (See Exhibit A)

2. General features of the proposed project:
   Mobile Home: 28' x 66' (1848 square feet)
   Site Size: .30 Acres

3. Potable Water and Wastewater Services: Existing from City

4. Current Zoning (See Exhibit B): C-3 Highway Commercial.

5. Current Surrounding Zoning (See Exhibit B): C-3 Highway Commercial, and AG Agricultural.

6. Current Surrounding Existing Land Use (See Exhibit C): Mobile Home and Vacant.

7. Comprehensive Plan Future Land Use Designation (See Exhibit D): Regional Scale Commercial

DISCUSSION:

The following addresses the review criteria for a Special Exception outlined in Section 4.16.4 of the UDO.

1. Explain how a literal interpretation of the City of Gautier's Unified Development Ordinance would deprive the applicant of rights commonly enjoyed by others of the district in which the property is located, and would work unnecessary hardship upon the applicant?

Applicant: Due to this area with other mobile homes in this area, I see no problem with me moving my mobile home on this property to be close to my family and raise a family of my own. This has been a wish of my stepdad for thirty years. His two other sons are right behind him. We are a very close family and want to keep it that way. Family is the key to success. I will make this property beautiful.

Staff Finding: This area was annexed into the City in 2002. Prior to the annexation, this area was zoned Agricultural. The applicant states that the property was bought prior to the zoning change and that it was bought with the intent to place a mobile home on it for family use at a later date. There are other mobile homes in the immediate vicinity and no businesses in that area. Staff finds that denying the proposed use would deprive the applicant of the rights commonly enjoyed by others in the area.

2. Explain how the requested Special Exception will be in harmony with the purpose of the City of Gautier's Unified Development Ordinance and will not be injurious to the neighborhood or the general welfare?

Applicant Response: We are right in sync with that area. There are other mobile homes in the area already. The neighbors do not have a problem with mobile homes in the area. There was a mobile home on this property since 1958, so I see no problem with it.

Staff Finding: There are currently mobile homes in the immediate vicinity of the proposed site of the Special Exception. Staff's opinion is that approval of the request will not negatively affect the neighborhood.

3. Explain how the special circumstances requiring the proposed Special Exception are not results of actions of the applicant.

Applicant Response: When these plans were made years ago this land was county. Then it was annexed. My stepdad has had a vision to let his sons live there. He married my mom and gave me this property so I can raise my two sons and be close to my mother.

Staff Finding: There is no evidence to indicate that special circumstances requiring the Special Exception were results of the action of the applicant. Staff finds that the Special Exception will not negatively affect the surrounding area, or cause a detriment to the surrounding properties.

DETERMINATION OF APPLICABLE LAW:

1. The UDO defines a Special Exception as a relaxation of the terms of the Unified Development Ordinance where such an exception will not be contrary to the public interest, and where, owing to conditions peculiar to the property, a literal enforcement of the ordinance would result in undue hardship. Special Exceptions are necessary when an applicant seeks to establish or expand a use not ordinarily permitted in a specific zoning district. "Special Exceptions" are not transferable from one (1) owner of land to another.

2. Special Exception requires a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).

3. Once an application for a Special Exception is submitted to the Planning Department, the procedures outlined in UDO Section 4.14.1 will be followed. At the appropriate time, The Planning Commission will conduct a public hearing to determine whether the applicant meets all relevant criteria, and make a recommendation to City Council pursuant to UDO Section 4.14.4. City Council, pursuant to UDO Section 4.14.4(C), will then consider the matter at its next regularly scheduled meeting and approve or deny the Special Exception.

4. A Special Exception is required for uses not ordinarily permitted in a specific zoning district. Special Exceptions are not permitted by right, and may only be granted when certain criteria are established. (4.16.4)
5. Special Exceptions do not run with the land, and may be revoked by the Planning Department if any of the following circumstances are discovered:
   A. The property changes ownership
   B. The property is being utilized in a manner not permitted under the zoning regulations or the special exception; or
   C. The property ceases to be used for the purpose allowed in the Special

Exception for a period of one hundred eighty (180) days during the existence of the Special Exception.

RECOMMENDATION & CONCLUSION:

Staff finds that the Special Exception proposed use will be compatible and harmonious with the area and recommends approval with no specific proposed conditions.

The Planning Commission may:

1. Recommend that City Council approve the Special Exception;
2. Recommend that City Council approve the Special Exception with changes; or
3. Recommend that City Council deny the Special Exception.

ATTACHMENTS:

1. Applicant's Exhibit 1 – Application
2. City's Exhibit A – Location Map
3. City's Exhibit B – Existing Zoning Map
4. City's Exhibit C – Existing Land Use Map
5. City's Exhibit D – Future Land Use Map

PLANNING DEPARTMENT
GAUTIER, MISSISSIPPI

SPECIAL EXCEPTION HEARING APPLICATION

Hearing Number
19-19-SE

TYPE OF REQUEST:		FEE:
Special Exception	_____	$250.00

Special Exception– These uses are not allowed by right, and **require** a recommendation by the Planning Commission and approval of the City Council.

Name of Applicant: John W Mallett Jr

Name of Business:

Address: 5401 campbell rd Mailing Address (if different): 5400 campbell rd

Email PID 85298055.000 Address:

Phone: 228-217-1386 Cell Phone: _____

Reason for request, location and intended use of Property: Homested I want to ~~get~~ raise my children there make it a home. 5401 campbell rd

ATTACHMENTS REQUIRED AS APPLICABLE:

✓ 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
✓ 2. Legal descriptions and street address.
✓ 3. A detailed project narrative that also addresses the questions on the "Criteria for Approval" page of this application.
N/A 4. Copy of protective covenants or deed restrictions, if any.
N/A 5. Copies of approvals, or requests for approval, from other agencies, such as, but not limited to, the Mississippi State Department of Health, U.S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources.
N/A 6. Any other information requested by the Planning Director and/or members of the Technical Review Committee.
N/A ☒ Owner's Consent form, if anyone other than 100% sole owner makes application (see attached).

Signature of Applicant: John Mallett

FOR OFFICE USE ONLY

Date Received 9-17-19 **Verify as Complete** BR (+5A)

Fee Amount Received 250.00

Initials of Employee Receiving Application BR

SPECIAL EXCEPTION

Criteria for Approval
Special Exception

A. Explain how a literal interpretation of the City of Gautier's Unified Development Ordinance would deprive the applicant of rights commonly enjoyed by others of the district in which the property is located, and would work unnecessary hardship upon the applicant?

B. Explain how the requested Special Exception will be in harmony with the purpose and intent of the City of Gautier's Unified Development Ordinance and will not be injurious to the neighborhood or the general welfare?

C. Explain how the special circumstances requiring the proposed Special Exception are not results of actions of the applicant?

EXCERPT FROM GAUTIER'S UNIFIED DEVELOPMENT ORDINANCE CONCERNING SPECIAL EXCEPTIONS

SECTION 4.16: Special Exception

A request for a Special Exception may be initiated by the owner or agent of the owner provided that said property has not been denied a previous request for a Special Exception for the same property or portion of property within the past twelve (12) months.

4.16.1 Application for Special Exception

Applications for a Special Exception may be filed on the appropriate application available from the Planning Department and shall include all requested information, attachments, and submittals.

4.16.2 Procedure

Once an application for a Special Exception is submitted to the Planning Department, the procedures outlined in UDO Section 4.14.1 will be followed. At the appropriate time, The Planning Commission will conduct a public hearing to determine whether the applicant meets all relevant criteria outlined below, and make a recommendation to City Council pursuant to UDO Section 4.14.4 (A and B). City Council, pursuant to UDO Section 4.14.4(C), will then consider the matter at its next regularly scheduled meeting and approve or deny the Special Exception.

4.16.3 Notice of Public Hearing

Notice of the public hearing for the Special Exception shall be made in a newspaper of regular and general circulation in the city at least fifteen (15) days prior to the public hearing, and a notice shall be posted at City Hall and the effected property for the benefit of the public. Additionally, all adjoining property owners shall be notified by first class mail in accordance with UDO Section 4.14.3.

4.16.4 Criteria for Approval

A Special Exception is required for uses not ordinarily permitted in a specific zoning district. Special Exceptions are not permitted by right, and may only be granted when the following criteria are established:

A. That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by others of the district in which the property is located, and that interpretation of this ordinance would work unnecessary hardship upon the applicant;

B. That the requested Special Exception will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or the general welfare; and

C. That the special circumstances are not the result of actions of the applicant.

4.16.5 Limitations and Restrictions

Special Exceptions do not run with the land, and may be revoked by the Planning Department if any of the following circumstances are discovered:

A. The property changes ownership;

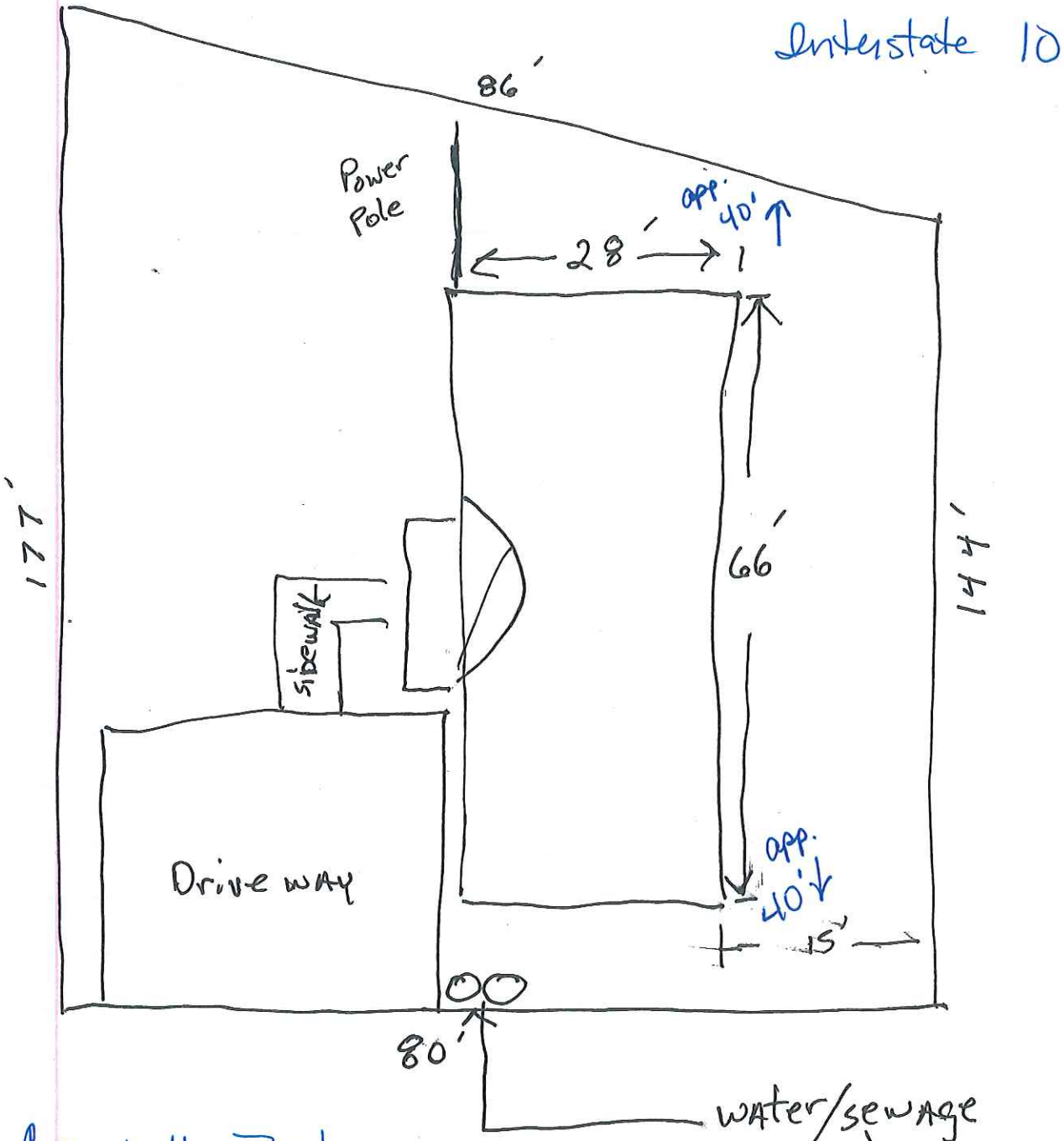
B. The property is being utilized in a manner not permitted under the zoning regulations or the special exception; or

C. The property ceases to be used for the purpose allowed in the Special Exception for a period of one hundred eighty (180) consecutive days during the existence of the Special Exception.

A. Due to this area with other mobile homes in this area, I see no problem with me moving my mobile home on this property. To be close to my family and raise a family of my own. This has been a wish of my stepdad for thirty years. His two other son's are ~~fright~~ right behind him, we are a very close family and want to keep it that way Family is the key to sucess I will make this property beautiful.

B. We are right in sink with the area their are other mobile homes in the area already. The neighbors do not have a problem with mobile homes in the area. Their was a mobile home on this property since 1958 so I see no problem with it.

C When these plans were made years ago this land was county. Then it was annexed. My stepdad has ~~[illegible]~~ had a vision to let his son's live there, he married my mom and gave me this property so I can raise my two sons, and be close to my mother.



Campbell Road

Proposed

OFFICIAL RECORDS JACKSON COUNTY
Josh Eldridge
CHANCERY CLERK
RECORDING FEE: $12.00
#201920581 BK:1948 PG:279-281
09/06/2019 11:41:02 AM 3 PGS
CSHOWS,DC Rept#19776

201920581 3 PGS

PREPARED BY:
ROBERT E. O'DELL
ATTORNEY AT LAW, PLLC
P.O. BOX 5206
VANCLEAVE, MS 39565
(228) 826-1555

RETURN TO:
John W. Mallett
5400 Campbell Rd.
Ocean Springs, MS
39564

INDEXING INSTRUCTIONS:
E ½ of NE ¼ of NE ¼ of
Sec. 17, T7S, R7W
Jackson County, MS

STATE OF MISSISSIPPI

COUNTY OF JACKSON

SPECIAL WARRANTY DEED

FOR AND IN CONSIDERATION of the sum of Ten Dollars ($10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, I,

DOUGLAS ALLEN PRIDDY
5400 Campbell Road
Ocean Springs, MS 39564
(228) 365-4240

, do hereby sell, convey, bargain and specially warrant unto:

JOHN W. MALLETT, JR.
5400 Campbell Road
Ocean Springs, MS 39564
(228) 217-1386

all of my rights, title, and interest in the following described property, together with all improvements thereon, the same being located and situated in Jackson County, Mississippi, and being more particularly described as follows, to wit;

That certain tract of land situated in the East one-half (E1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 17, Township 7 south, Range 7 West; commencing at the Southwest corner of Tract #41, being more fully described as the East one-half (E1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 17, Township 7 south, Range 7 West according to the H.A. Campbell survey; thence run East eighty (80) feet; thence run North one hundred forty-four (144) feet to the South margin of land previously conveyed to Mississippi State Highway Department for Interstate Highway 10; thence run Northwesterly along the South margin of said Interstate 10 a distance of eighty-six (86) feet, more or less, to the Western boundary of said Tract #41; thence run South along the Western boundary of said Tract #41 a distance of one hundred seventy-seven (177) feet to the point of beginning.

Being the same property recorded in Deed Book 1889, at Pages 11-12, filed in the Land Records of Jackson County, Mississippi.

The above described property is no part of the homestead of the Grantor.

This conveyance is subject to all restrictions, easements and reservations incidental with said property on file and of record in the Office of the Chancery Clerk of Jackson County, Mississippi.

WITNESS the signature of the Grantor herein on this the 5th day of September, A.D., 2019.

DOUGLAS ALLEN PRIDDY
Grantor

TITLE NOT EXAMINED

STATE OF MISSISSIPPI

COUNTY OF JACKSON

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the above mentioned State and County, **DOUGLAS ALLEN PRIDDY,** Grantor, who acknowledged that he signed and delivered the above and foregoing Special Warranty Deed as his true and voluntary act and deed.

GIVEN UNDER MY HAND and official seal of office on this, the 5th day of September, A.D., 2019.

Robin Tomek

NOTARY PUBLIC

MY COMMISSION EXPIRES:

STATE OF MISSISSIPPI
ROBIN TOMEK
NOTARY PUBLIC
ID No. 9251
Commission Expires
June 12, 2023
JACKSON COUNTY

I wish to place this trailor on this lot, 5406 campbell rd, which I received from my mother AND stepdad. This property is my future home, to raise my kids on, to perform work on AND to get me started in life, I have plans on maintaing it to high standards, to the conditions that the city has given me. It will also for me AND my family to stay close together because family means alot to me, I am a shipbuilder, father, son AND will be a value member of this community.

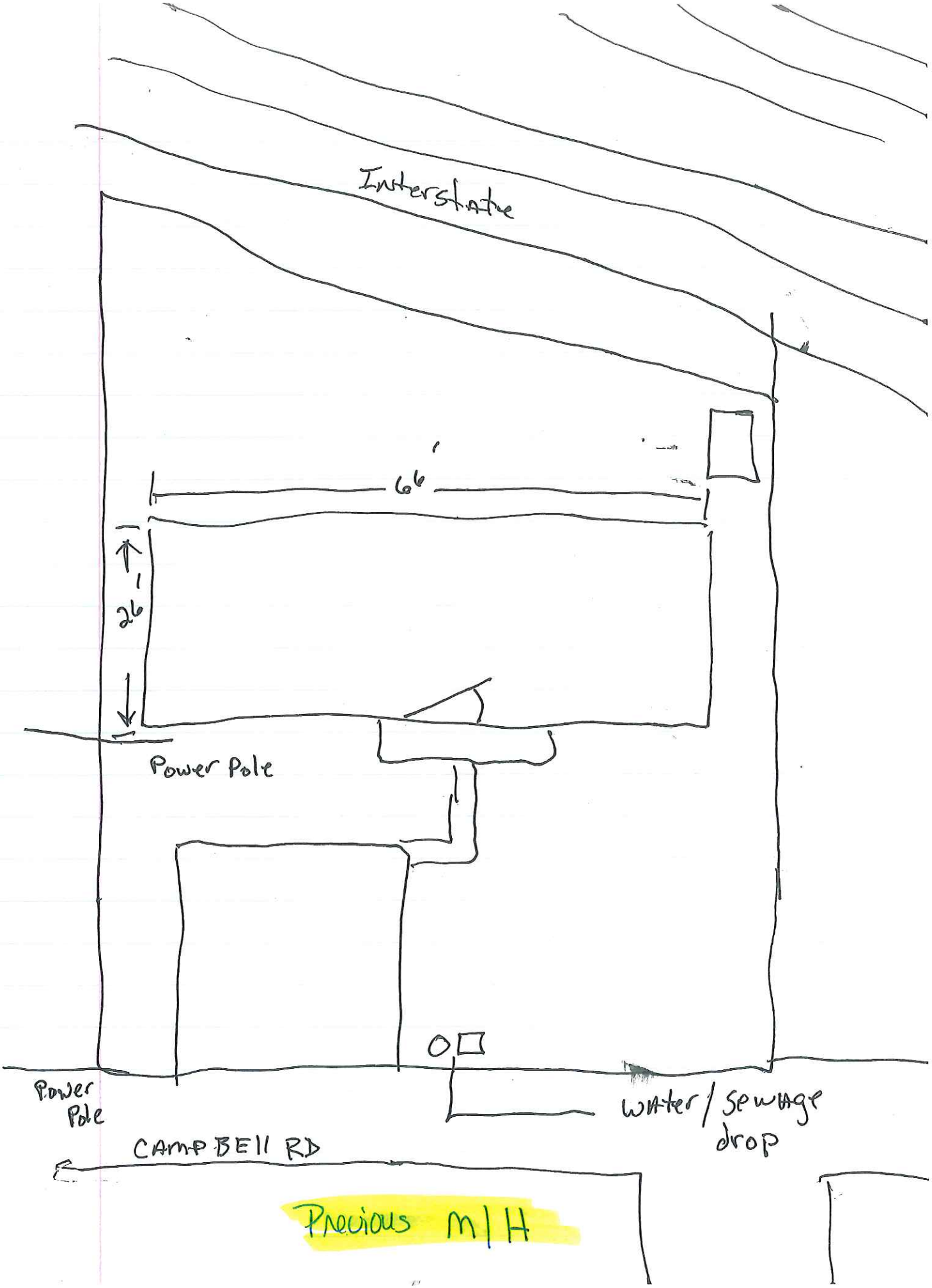
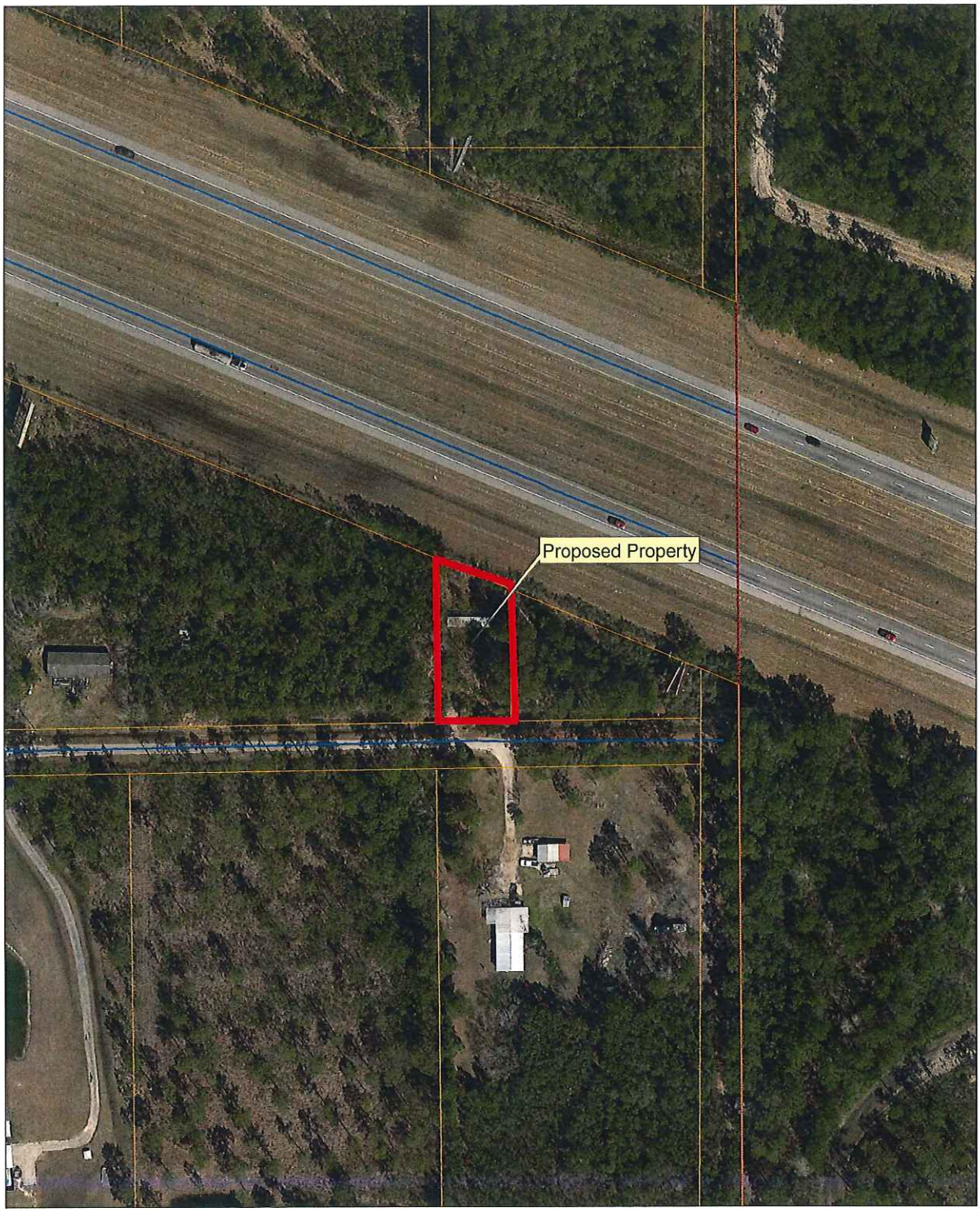

Interstate
66'
26'
Power Pole
Power Pole
water / sewage drop
CAMPBELL RD
Precious M|H

EXHIBIT A

LOCATION MAP

Prepared by:
City of Gautier
Planning Department



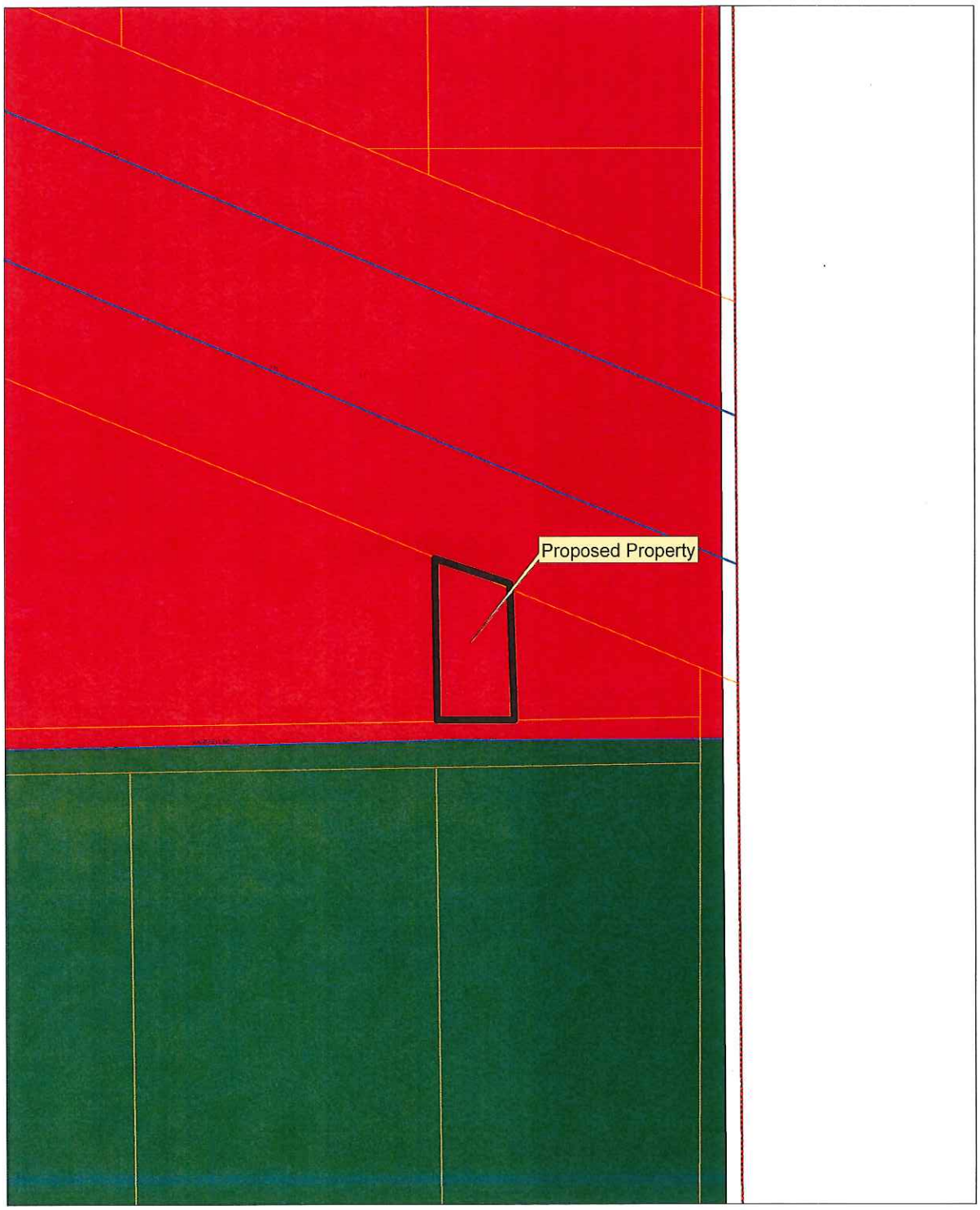
Legend

- Gautier_Parcels_Clip
- GAUTIER_CITYLIMTS
- Centerlines_Clip

EXHIBIT B

ZONING MAP

Prepared by:
City of Gautier
Planning Department



Legend

- Gautier_Parcels_Clip
- GAUTIER_CITYLIMTS
- Centerlines_Clip

Zoning

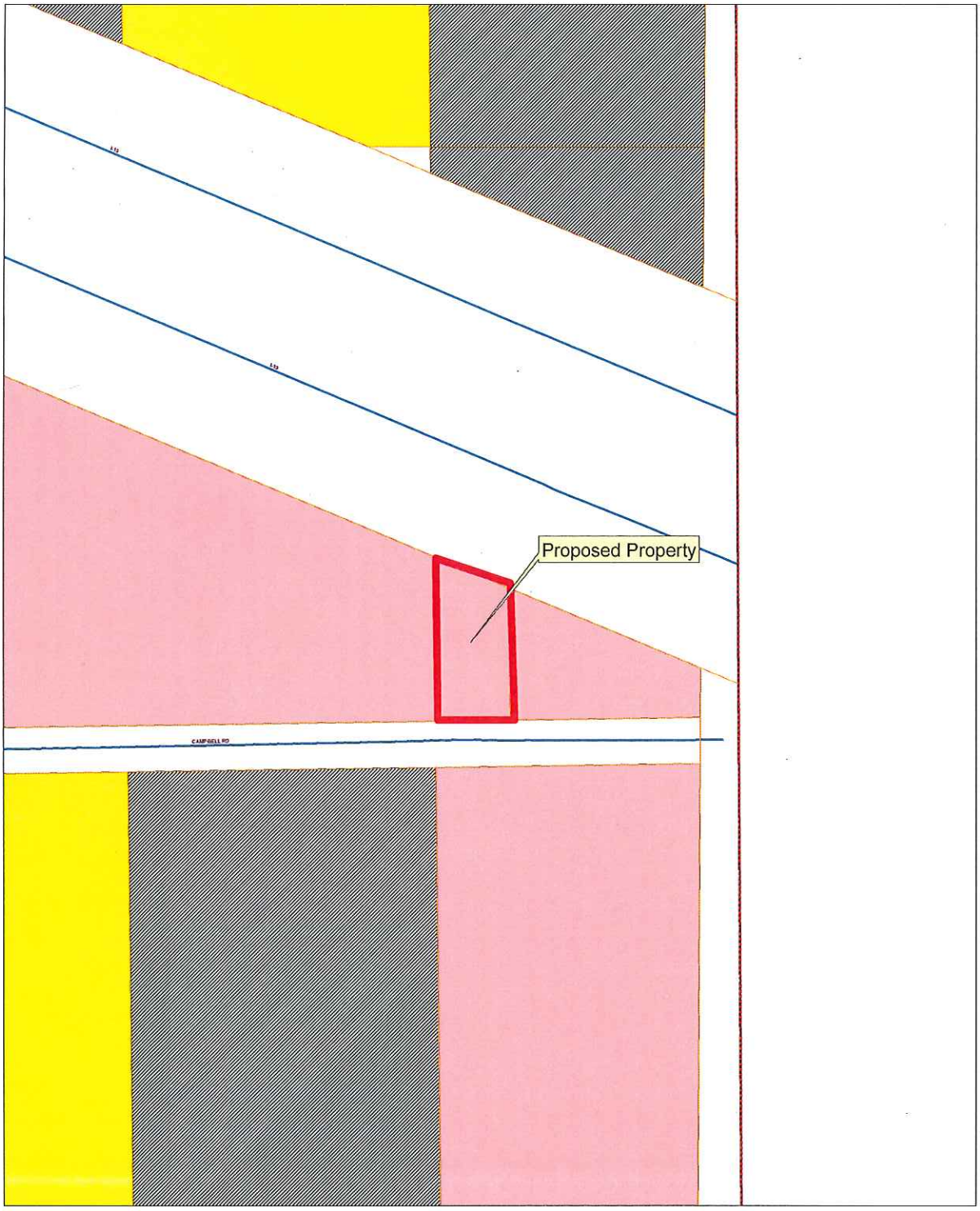
ZONECODE

- AG
- C-1
- C-2
- C-3
- I-2
- MURC-1
- MURC-2
- MURC-MW
- PL
- PUD
- R-1
- R-2
- R-3
- RE
- TC

EXHIBIT C

EXISTING LAND USE MAP

Prepared by:
City of Gautier
Planning Department



Legend

- Gautier_Parcels_Clip
- GAUTIER_CITYLIMTS
- Centerlines_Clip

EXISTING LAND USE

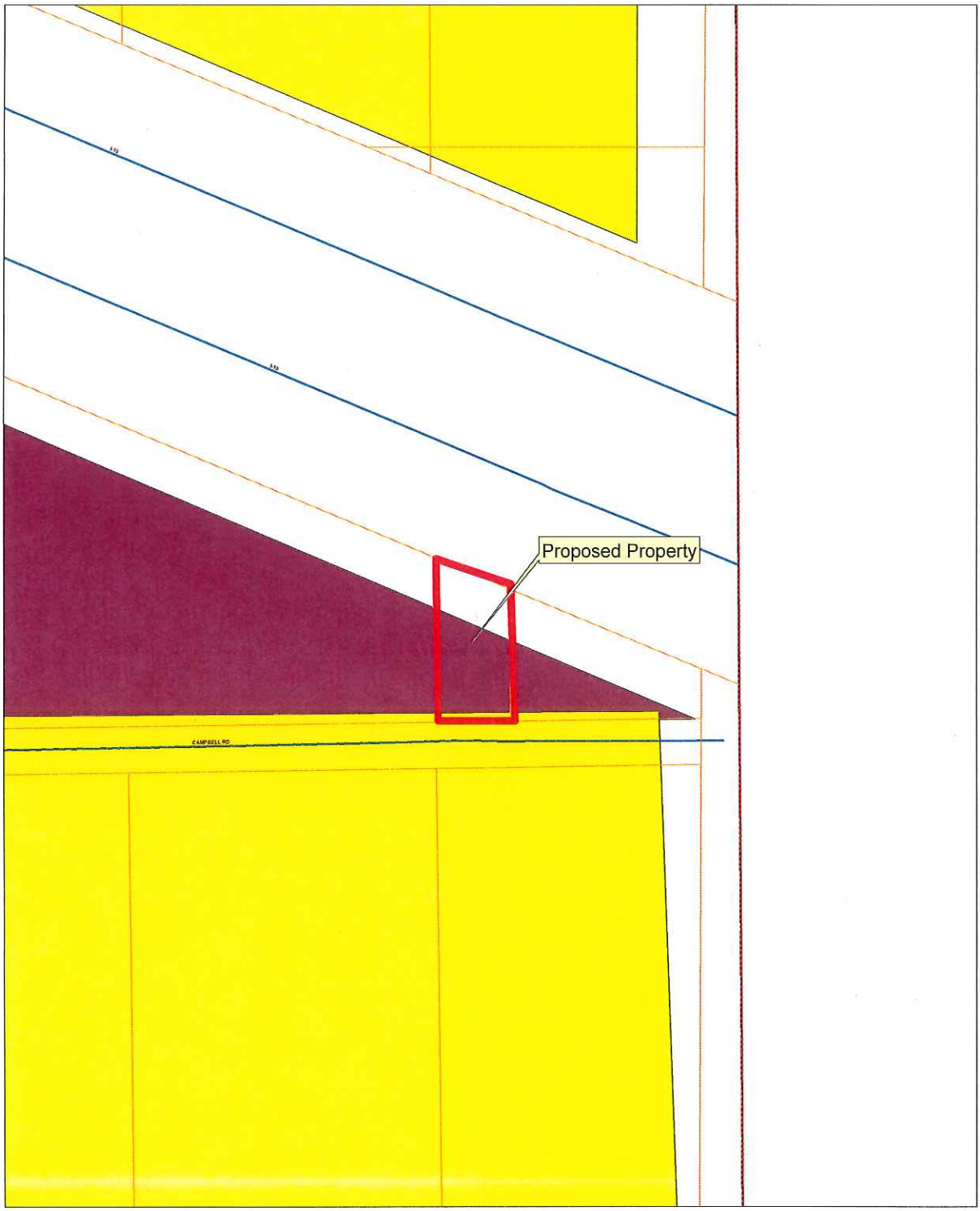
ELU_08

- commercial-retail
- conservation
- civic
- industrial
- marina/fish camps
- high density residential
- mobile home
- mobile home park
- medium density residential
- office
- recreation
- very low to low density residential
- utility
- vacant

EXHIBIT D

FUTURE LAND USE MAP

Prepared by:
City of Gautier
Planning Department



Legend

- Gautier_Parcels_Clip
- GAUTIER_CITYLIMTS
- Centerlines_Clip

FUTURE LAND USE

FLU_Class

- Civic
- high impact commercial
- Conservation
- High Density Residential
- Industrial
- Low Density Residential
- Medium Density Residential
- Mobile Home Residential
- low impact Commercial
- Recreational
- recreational commercial
- Regional Scale Commercial
- mixed use residential
- Town Center
- Very Low Density Residential

Excerpt from November 7, 2019 Planning Commission Meeting:

The Planning Department has received a request from John W. Mallett, Jr. for a Special Exception that would allow a mobile home in a C-3 Highway Commercial Zoning District, 5401 Campbell Road. (GPC Case No. 19-19-SE)

Scott Ankerson, Planning Director, gave a brief overview of the case.

REQUEST:

The Planning Department has received a request from John W. Mallett, Jr. for a Special Exception Permit that would allow a Mobile Home in a C-3, Highway Commercial Zoning District, at 5401 Campbell Road, PID#85298055.000. The application fee of $250 was paid on September 17, 2019. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-3 Highway Commercial.

1. Location: 5401 Campbell Road (See Exhibit A)

2. General features of the proposed project:
   Mobile Home: 28' x 66' (1848 square feet)

   Site Size: .30 Acres

3. Potable Water and Wastewater Services: Existing from City

4. Current Zoning (See Exhibit B): C-3 Highway Commercial.

5. Current Surrounding Zoning (See Exhibit B): C-3 Highway Commercial, and AG Agricultural.

6. Current Surrounding Existing Land Use (See Exhibit C): Mobile Home and Vacant.

7. Comprehensive Plan Future Land Use Designation (See Exhibit D): Regional Scale Commercial

DISCUSSION:

The following addresses the review criteria for a Special Exception outlined in Section 4.16.4 of the UDO.

1. Explain how a literal interpretation of the City of Gautier's Unified Development Ordinance would deprive the applicant of rights commonly enjoyed by others

of the district in which the property is located, and would work unnecessary hardship upon the applicant?

Applicant: Due to this area with other mobile homes in this area, I see no problem with me moving my mobile home on this property to be close to my family and raise a family of my own. This has been a wish of my stepdad for thirty years. His two other sons are right behind him. We are a very close family and want to keep it that way. Family is the key to success. I will make this property beautiful.

Staff Finding: This area was annexed into the City in 2002. Prior to the annexation, this area was zoned Agricultural. The applicant states that the property was bought prior to the zoning change and that it was bought with the intent to place a mobile home on it for family use at a later date. There are other mobile homes in the immediate vicinity and no businesses in that area. Staff finds that denying the proposed use would deprive the applicant of the rights commonly enjoyed by others in the area.

2. Explain how the requested Special Exception will be in harmony with the purpose of the City of Gautier's Unified Development Ordinance and will not be injurious to the neighborhood or the general welfare?

Applicant Response: We are right in sync with that area. There are other mobile homes in the area already. The neighbors do not have a problem with mobile homes in the area. There was a mobile home on this property since 1958, so I see no problem with it.

Staff Finding: There are currently mobile homes in the immediate vicinity of the proposed site of the Special Exception. Staff's opinion is that approval of the request will not negatively affect the neighborhood.

3. Explain how the special circumstances requiring the proposed Special Exception are not results of actions of the applicant.

Applicant Response: When these plans were made years ago this land was county. Then it was annexed. My stepdad has had a vision to let his sons live there. He married my mom and gave me this property so I can raise my two sons and be close to my mother.

Staff Finding: There is no evidence to indicate that special circumstances requiring the Special Exception were results of the action of the applicant. Staff finds that the Special Exception will not negatively affect the surrounding area, or cause a detriment to the surrounding properties.

DETERMINATION OF APPLICABLE LAW:

1. The UDO defines a Special Exception as a relaxation of the terms of the Unified Development Ordinance where such an exception will not be contrary to the public interest, and where, owing to conditions peculiar to the property, a literal enforcement of the ordinance would result in undue hardship. Special Exceptions are necessary when an applicant seeks to establish or expand a use not ordinarily permitted in a specific zoning district. "Special Exceptions" are not transferable from one (1) owner of land to another.

2. Special Exception requires a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).

3. Once an application for a Special Exception is submitted to the Planning Department, the procedures outlined in UDO Section 4.14.1 will be followed. At the appropriate time, The Planning Commission will conduct a public hearing to determine whether the applicant meets all relevant criteria, and make a recommendation to City Council pursuant to UDO Section 4.14.4. City Council, pursuant to UDO Section 4.14.4(C), will then consider the matter at its next regularly scheduled meeting and approve or deny the Special Exception.

4. A Special Exception is required for uses not ordinarily permitted in a specific zoning district. Special Exceptions are not permitted by right, and may only be granted when certain criteria are established. (4.16.4)

5. Special Exceptions do not run with the land, and may be revoked by the Planning Department if any of the following circumstances are discovered:

   A. The property changes ownership

   B. The property is being utilized in a manner not permitted under the zoning regulations or the special exception; or

   C. The property ceases to be used for the purpose allowed in the Special Exception for a period of one hundred eighty (180) days during the existence of the Special Exception.

RECOMMENDATION & CONCLUSION:

Staff finds that the Special Exception proposed use will be compatible and harmonious with the area and recommends approval with no specific proposed conditions.

Mr. Ankerson stated he would like to change his recommendation regarding no proposed conditions. Noting that C-3 Districts have a rear setback requirement of zero feet, he would advise establishing setbacks if the special exception was approved.

The Planning Commission may:

1. Recommend that City Council approve the Special Exception;
2. Recommend that City Council approve the Special Exception with changes; or
3. Recommend that City Council deny the Special Exception.

Chairman Wooten asked if the applicant was present and wished to speak.

John Mallett, Jr. spoke as to why he was requesting the Special Exception. He stated that his stepfather had given him the property to place a mobile home on so that he and his family could live in the same immediate area as his mother, stepfather and two stepbrothers. He also stated that his stepfather had purchased the property years before with this in mind.

There were none in attendance speaking in opposition.

Chairman Wooten stated that the property was zoned Agricultural prior to the City annexing the area.

ACTION TAKEN:

Chairman Wooten made a motion to recommend that City Council approve the Special Exception based on Staff's Finding of Facts and placing conditions requiring a 25' rear setback, a 50' front setback and a 20' side setback and at least a 5' rear setback on accessory structures.

Commissioner Davis seconded the motion and the following vote was recorded:

AYES: **David Wooten**
Kay C. Jamison
Jimmy Green
Joshua Ward
Paul Gainer
James Lee
William Davis

Motion passed.

CITY OF GAUTIER
Business Agenda Item #4
Fact Sheet

Council Meeting:	**November 19, 2019**
Title:	**Approval of a Supplemental Agreement No. 1 to Right of Way Technology, Inc. Contract for the Martin Bluff Road Widening Project: STP-9194-00(001)LPA/105069-801000**
Introduced by:	
Contact Person/Telephone	**April Havens 497-8000 ext. 315**

Summary Explanation: Approval of a Supplemental Agreement No. 1 to Right of Way Technology, Inc.'s contract to provide professional services for right-of-way acquisition for the Martin Bluff Road Widening Project.

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract/Agreement	☒
Minutes	☐
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	**City Manager**

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Second Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Voted as follows:		**Ayes**	**Nays**	**Abstained**	**Absent**
Mayor	**Torjusen**	☐	☐	☐	☐
At Large	**Martin**	☐	☐	☐	☐
Ward 1	**George**	☐	☐	☐	☐
Ward 2	**Jackson**	☐	☐	☐	☐
Ward 3	**Vaughan**	☐	☐	☐	☐
Ward 4	**Anderson**	☐	☐	☐	☐
Ward 5	**Colledge**	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 000-2019

WHEREAS, the Grants and Projects Department request the City Council to approve a Supplemental Agreement No. 1 to Right of Way Technology, Inc. for the Martin Bluff Road Widening Project; and

WHEREAS, the project is intended to provide improved traffic operations and safety on Martin Bluff Road; and

WHEREAS, the supplemental agreement will add $1,200.00 to the cost of the contract in order to pay the residential relocation reviewer for work already performed on two parcels in order to close out the right of way phase of the project. This supplemental agreement language was provided by MDOT;

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the City approves a Supplemental Agreement No.1 to Right of Way Technology, Inc.'s contract to provide professional services for right-of-way acquisition for the Martin Bluff Road Widening Project: STP-9194-00(001)LPA/105069-801000.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by **BLANK** seconded by **BLANK** and the following vote was recorded:

AYES:

NAYS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

BLANK by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

CITY OF GAUTIER
MEMORANDUM

To:	Paula Yancey, City Manager
From:	April Stennett, Grants Administrator
Date:	11/13/2019
Subject:	Supplemental Agreement No. 1 to Right of Way Technology, Inc. Contract for Martin Bluff Road Widening Project: STP-9194-00(001)LPA/105069-801000

REQUEST:

The Grants and Projects Department requests City Council approval of Supplemental Agreement No. 1 to Right of Way (ROW) Technology, Inc.'s contract to provide professional services for right-of-way acquisition for the Martin Bluff Road Widening Project.

BACKGROUND:

This project is intended to provide improved traffic operations and safety on Martin Bluff Road. The City advertised in November 2013 for professional services for Right of Way Appraisal and Review Appraisal Services, Legal Services, and Acquisition Agent Services. City Council selected ROW Technology, Inc. to provide these services at the March 18, 2014 City Council meeting according to MDOT and FHWA Consultant Selection Process requirements.

DISCUSSION:

This supplemental agreement will add $1,200.00 to the cost of the contract in order to pay the residential relocation reviewer for work already performed on two parcels in order to close out the right of way phase of the project. This supplemental agreement language was provided by MDOT.

RECOMMENDATION:

The Grants and Projects Department recommends that City Council approve Supplemental Agreement No. 1 to Right of Way (ROW) Technology, Inc.'s contract to provide professional services for right-of-way acquisition for the Martin Bluff Road Widening Project.

The City Council may:
1) Approve Supplemental Agreement No. 1 as presented;
2) Not approve Supplemental Agreement No. 1.

ATTACHMENTS:

1. Supplemental Agreement No. 1

Between the

City of Gautier And Right of Way Technology, Inc.

SUPPLEMENTAL AGREEMENT NO. 1

Martin Bluff Road Widening Project
Jackson County
STP-91914-00(001) LPA 105069-801000

WHEREAS, *Right of Way Technology, Inc.* (the CONSULTANT) entered into Right of Way Real Estate Services Contract with the *City of Gautier* (the LPA) on the 20th day of July 2017, to perform Appraisal, Appraisal Review, Acquisition, Relocation, Property Management and Title Services, as provided for in Project No. STP-9194-00(001) LPA 105069-801000;

WHEREAS, the CONSULTANT has been requested to provide Relocation Review services resulting from a change in the Department of Transportation funding and scope of the project for policy change regarding relocation assistance review in force and effect beginning July 1, 2018; and,

WHEREAS, the LPA agrees that the CONSULTANT is entitled to additional compensation for Additional Services (Extra Work) as required by the LPA; and

WHEREAS, the CONSULTANT agrees to perform the Extra Work for an additional cost not to exceed $1,200.00.

NOW THEREFORE, it is mutually agreed that the CONSULTANT will accomplish such Additional Services (Extra Work) in accordance with the Contract as modified herein and the LPA will compensate the CONSULTANT for services as follows:

Scope-of-Work
The CONSULTANT has been requested to provide additional services related to the PROJECT as shown in Exhibit 2 – Scope of Work, of original agreement.

The Maximum Allowable Cost shall be amended to add the sum of $1,200.00 so the revised total Maximum Allowable Contract Cost is $326,275.00.

Comment [HL1]: update all numbers

Fees and Expenses Schedule:

Comment [HL2]: update

	Est. No. of Parcels	Cost per Parcel	Total Contract
Original	27		$325,075.00
Residential Relocation Review	1	$1,200.00	$ 1,200.00
Totals			$326,275.00

The term date of this Supplemental Agreement is hereby retroactive to MDOT policy change date of July 1, 2018, through the LOA termination date of the Contract.

This Supplemental Agreement in no way modifies or changes the original of which it becomes a part except as specifically stated herein.

Dated, the _____ day of _____, 20__.

City of Gautier

_____

Paula Yancey, City Manager

Right of Way Technology, Inc.

Dated, the _____ day of _____, 20__.

_____

Mark Dye, President

Exhibit A

Relocation Assistance Review

Due to the complexity of the relocations and/or the size of the project, the CONSULTANT shall conduct a review of the documentation of Relocation Assistance payments and services in each file to ascertain compliance with all local, state, and federal regulations.

The CONSULTANT Relocation Review agent(s) shall be independent of the Relocation Assistance agent(s) and shall provide a report to the CONSULTANT upon conclusion of review of each relocation file.

Relocation assistance review shall include the following:

Review Relocation Assistance Agent'(s) statement;
Review relocation comparable brochure;
Review and approve purchase supplement and moving expense offer computation for residential owners;
Review and approve rent supplement and moving expense offer computation for residential tenants;
Review and approve moving expense offer computation and business reestablishment for business owners and business tenants;
Review and approve all claims for purchase supplement payment, incidental expense, and moving expense for residential owners;
Review and approve all claims for rent supplement payment and moving expenses for residential tenants;
Review and approve all claims for business reestablishment, search expense, fixed payment, and moving expense for business owners and business tenants; and
Review and approve closure of all relocation files.

Exhibit B

Progress Schedule

All Relocation and Relocation Review must be completed within 24 months after the notice to proceed is issued.

CITY OF GAUTIER
Business Agenda Item #5
Fact Sheet

Council Meeting: November 19, 2019
Title: Approval of Docket of Claims

Introduced by:
Contact Person/Telephone Teresa Montgomery 497-8000

Summary Explanation: Approval of the Docket of Claims.

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract/Agreement	☐
Minutes	☐
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	City Manager

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	Martin	☐	George	☐	Jackson	☐	Vaughan	☐	Anderson	☐	Colledge	☐

Second Made by:													
Torjusen	☐	Martin	☐	George	☐	Jackson	☐	Vaughan	☐	Anderson	☐	Colledge	☐

Voted as follows:		Ayes	Nays	Abstained	Absent
Mayor	Torjusen	☐	☐	☐	☐
At Large	Martin	☐	☐	☐	☐
Ward 1	George	☐	☐	☐	☐
Ward 2	Jackson	☐	☐	☐	☐
Ward 3	Vaughan	☐	☐	☐	☐
Ward 4	Anderson	☐	☐	☐	☐
Ward 5	Colledge	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 000-2019

WHEREAS, Miss. Code Ann. 21-39-9 requires governing authority to review all unpaid claims and determine if there is an obligation. An obligation exists if the related materials and supplies were properly contracted for and received by the municipality; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that Docket of Claims is hereby approved, provided that all entries thereon are true, correct, properly entered and not fraudulent.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by **BLANK** seconded by **BLANK** and the following vote was recorded:

AYES:

NAYS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

BLANK by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

Docket of Claims
Release date from 11/19/2019 thru 11/19/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	SECURE NETWORKS LLC	200327	11/19/2019	11/01/2019				
	Account Number 001-092-698	Description: DEC 2019 NETWORK SERVICES		Invoice # 3952	Date 10/14/2019	P.O.	Amount 2,280.00	2,280.00
001	O'REILLY AUTO PARTS	200328	11/19/2019	11/01/2019				
	Account Number	Description		Invoice #	Date	P.O.	Amount 1,173.47	
	001-100-570	IDLER PULLEY: U #12411		1978145071	09/30/2019			38.15
	001-100-570	NEW WTR PUMP: U #12411		1978145074	09/30/2019			98.04
	001-100-570	THERMOSTAT: U #12411		1978145075	09/30/2019			18.14
	001-100-570	COOL TEM SEN: U #12411		1978145088	09/30/2019			27.69
	001-100-639	1GAL TRANS FLD: GENERATOR		1978145237	10/01/2019			21.99
	001-100-570	BODY BOLT: U #19414		1978145303	10/02/2019			3.49
	001-100-639	BATT, CORE CHG: POLARIS		1978145512	10/04/2019			110.27
	001-100-639	CDT RTN: BATT, CORE EXCHANGE		1978145512	10/04/2019			-10.00
	001-100-639	BATT, CORE CHG: HONDA 4 WHLR		1978145942	10/08/2019			89.26
	001-100-639	CDT RTN: BATT, CORE CHG		1978145942	10/08/2019			-10.00
	001-100-570	MICRO-V BELT: U #17530		1978146222	10/10/2019			20.56
	001-100-570	02 SENSOR, FREIGHT: U #17530		1978146225	10/10/2019			34.45
	001-100-570	HEADLIGHT BULB: U #59		1978146682	10/14/2019			5.19
	001-100-570	HEADLIGHT BULB (2)		1978146725	10/15/2019			10.38
	001-100-559	5AMP BLADE FUSE		1978146860	10/16/2019			3.99
	001-090-638	TIE ROD, BALL JOINT, HUB ASBLY		1978147533	10/23/2019			436.35
	001-090-638	SEMI-MET PAD, BRAKE ROTOR (2)		1978147533	10/23/2019			109.99
	001-100-570	HEADLIGHT BULB: U #66		1978147687	10/25/2019			5.19
	001-100-570	STABIL LINK,ABS SENSOR:U#16160		1978147690	10/25/2019			148.88
	001-100-570	WIPER BLADE (3): U #16160		1978147690	10/25/2019			11.46
001	CABLE ONE INC	200333	11/19/2019	11/04/2019				
	Account Number 001-092-698	Description: NOV 2019: #107571481		Invoice # 10252019	Date 11/01/2019	P.O.	Amount 130.07	130.07
001	CABLE ONE INC	200334	11/19/2019	11/04/2019				
	Account Number 001-170-698	Description: NOV 2019: SR BLDG #120793682		Invoice # 10252019	Date 11/01/2019	P.O.	Amount 84.62	84.62
001	CENTERPOINT ENERGY	200335	11/19/2019	11/04/2019				
	Account Number	Description		Invoice #	Date	P.O.	Amount 26.98	
	001-161-630	CENTRAL FIRE STN:9/25-10/24/19		11000885-1	10/31/2019			15.98
	001-161-630	SOUTH FIRE STN:9/25-10/24/19		11000999-0	10/31/2019			11.00
001	DPS CRIME LAB	200336	11/19/2019	11/04/2019				
	Account Number 001-100-699	Description: ANALYTIC FEES		Invoice # 90085204	Date 11/01/2019	P.O.	Amount 60.00	60.00
001	TEC	200341	11/19/2019	11/05/2019				
	Account Number 001-092-605	Description: MONTHLY LONG DISTANCE		Invoice # 978461	Date 11/01/2019	P.O.	Amount 115.93	115.93

Docket of Claims
Release date from 11/19/2019 thru 11/19/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	AUTO TRUCK AND TRAILER PARTS INC	200342	11/19/2019	11/06/2019			1,219.17	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-570	CONTROL ARM (2): U #12411	278269	10/01/2019		169.88
001-100-570	OIL FILTER (12): POLICE DEPT	278295	10/01/2019		26.40
001-100-570	CONTROL ARM: U #12411	278268	10/01/2019		116.71
001-100-570	BATT: U #51	278355	10/03/2019		130.00
001-100-570	BATT: U #15809	278434	10/08/2019		105.00
001-100-570	ANTIFREZ (4): POLICE DEPT	278496	10/11/2019		74.96
001-161-638	BATT: RE-1	278511	10/11/2019		105.00
001-161-638	BATT: RE-1	278514	10/11/2019		105.00
001-100-570	HYPERLUBE (8): POLICE CHRGS	278635	10/17/2019		103.36
001-161-638	ROTELLA (3): FIRE ENGS	278681	10/21/2019		49.50
001-100-570	BATT: BLACK CHRG	278825	10/29/2019		130.00
001-100-570	LUBE (8): POLICE CHRGS	278847	10/30/2019		103.36

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	MALLETTE BROTHERS CONSTRUCTION INC	200343	11/19/2019	11/06/2019			1,886.55	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-201-576	17.86 A-BASE LIMESTONE TN	20909	10/31/2019		535.80
001-201-576	18.04 ASPHALT TN	20909	10/31/2019		1,350.75

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	GOVERNMENT BRANDS SHARED SERVICES	200344	11/19/2019	11/06/2019			1,475.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-010-698	NOV 2019 COURT SUPPORT	1-45354	11/01/2019		1,475.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	M & E FEED & SEED	200346	11/19/2019	11/07/2019			212.95	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-514	DOG FOOD	5326	09/17/2019		41.99
001-100-514	DOG FOOD	5331	10/04/2019		41.99
001-100-514	DOG FOOD	5342	10/00/2019		42.99
001-100-514	DOG FOOD	5336	10/22/2019		42.99
001-100-514	DOG FOOD	5343	11/01/2019		42.99

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	AT&T GLOBAL NETWORK SERVS LLC	200347	11/19/2019	11/08/2019			229.64	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-699	NCIC EQUIPMENT CHARGES	GG55939	11/01/2019		229.64

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	AIRGAS USA LLC	200369	11/19/2019	11/08/2019			215.93	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-205-588	CYLINDER RENTAL	9965934137	10/31/2019		215.93

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	AT&T INTERSTATE DED PRIVATE LINE SERVS	200370	11/19/2019	11/08/2019			215.39	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-699	ACCUNET T1.5 DIGITAL SERV	3113206011	11/01/2019		215.39

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	ADVANCE AUTO PARTS	200372	11/19/2019	11/08/2019			26.12	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-161-559	6" LIGHTNING CBL	0770	10/18/2019		15.63
001-161-559	3.4A USB CAR CHRG	0770	10/18/2019		10.49

Docket of Claims
Release date from 11/19/2019 thru 11/19/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	LOWES HOME CENTERS INC	200373	11/19/2019	11/12/2019			1,503.48	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-170-559	HM BLANK KEY (5)	902523	09/25/2019		11.30
001-170-559	POWERSHOT STAPLE GUN	902615	09/26/2019		20.89
001-170-512	200FT CAUTION TAPE (2):CRUISIN	909421	09/30/2019		12.30
001-170-512	STEEL REBAR CAP (6): CRUISIN	909421	09/30/2019		18.48
001-170-512	500PK 11-IN CABLE TIE: CRUISIN	909421	09/30/2019		28.51
001-170-512	100CT MARK FLAG (2): CRUISIN	909421	09/30/2019		18.98
001-170-512	20LB INSECT KILLER: CRUISIN	909421	09/30/2019		15.20
001-205-559	BROOM, DUST PAN, PUSH BROOM	911762	10/02/2019		27.67
001-205-559	COMMERCIAL WTR HOSE (2)	911762	10/02/2019		72.17
001-205-559	COTTON MOVING BLANKET (3)	901596	10/02/2019		56.97
001-205-559	10FT TIE DOWNS 4PK	901596	10/02/2019		13.57
001-170-512	6FT T-POST(10):CRUISIN BANNERS	919576	10/04/2019		41.60
001-170-512	PVC PRIMER, HOSE WASHER	909574	10/06/2019		11.08
001-170-512	PVC COUP (3), SCH40 PIPE (4)	909574	10/06/2019		30.98
001-170-512	2X4X14 TC LUMBER (4)	901388	10/06/2019		29.16
001-205-560	SUPPLIES: POINT CLEAR SIGN	902366	10/08/2019		29.42
001-205-559	KOBALT 8LB SLEDGE HAMMER	911312	10/10/2019		28.49
001-205-560	SUPPLIES: POINT CLEAR SIGN	902495	10/10/2019		15.73
001-205-560	6PK PANSY(10), CROTN MAMEY(2)	911314	10/10/2019		47.28
001-170-635	REPR SINK: SR CENTER	909161	10/14/2019		33.20
001-205-559	DW 4-TOOL COMBO KIT W/CASE	901390	10/16/2019		255.55
001-205-559	DW CORDLESS RECIP SAW TOOL	901390	10/12/2019		170.05
001-100-559	BATT: AAA 24PK & AA 24CT	901329	10/16/2019		30.95
001-100-635	AC THERMOSTAT: POLICE DEPT	901329	10/16/2019		18.89
001-100-559	5-TIER STEEL SHELVING UNIT (2)	901724	10/18/2019		170.96
001-205-559	26FT FBGL EXTENSION LADDER	901358	10/21/2019		274.55
001-205-559	PICTURE HANGER SUPPLIES	901507	10/22/2019		19.55

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	BORDIS & DANOS PLLC	200374	11/19/2019	10/12/2019			10,000.00	10,000.00

Account Number	Description	Invoice #	Date	P.O.	Amount
001-060-602	NOV 2019 RETAINER	75	11/05/2019		

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	MATTHEW LACHAUSEE	200375	11/19/2019	10/12/2019			360.00	360.00

Account Number	Description	Invoice #	Date	P.O.	Amount
001-010-602	JUDGE PRO TEM 10/28/19	4 HOURS	11/04/2019		

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	JACKSON COUNTY ADULT DETENTION CENTER	200376	11/19/2019	10/12/2019			5,810.00	5,810.00

Account Number	Description	Invoice #	Date	P.O.	Amount
001-010-696	OCT 2019 ADC CHGS	10312019	11/05/2019		

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	MS DEPT OF FINANCE & ADMIN	200377	11/19/2019	10/12/2019			20,974.75	20,974.75

Account Number	Description	Invoice #	Date	P.O.	Amount
001-000-300	OCT 2019 COURT ASSESSMENTS	10312019	11/01/2019		

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	MS DEPT OF PUBLIC SAFETY	200378	11/19/2019	10/12/2019			1,248.00	1,248.00

Account Number	Description	Invoice #	Date	P.O.	Amount
001-000-300	OCT 2019 SPECIAL ASSESSMENTS	10312019	11/01/2019		

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	MS DEPT OF PUBLIC SAFETY	200379	11/19/2019	10/12/2019			91.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-000-300 / OCT 2019 INTERLOCK FEES			10312019	11/01/2019			91.00
001	JACKSON COUNTY BOARD OF SUPERVISORS	200380	11/19/2019	10/12/2019			4,375.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-092-698 / RESEARCH-TAX SALE (875)			11	10/31/2019			4,375.00
001	DIRECTV LLC	200381	11/19/2019	10/12/2019			152.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-698 / WEST STN: 022727663 (DEC)			11132019	11/14/2019			152.00
001	DIXIE GLASS MS GULF COAST	200382	11/19/2019	10/12/2019			520.77	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-635 / REPAIR FRONT GLASS DOOR			I1042475	11/05/2019			520.77
001	FOSTERS A/C & HEATING INC	200383	11/19/2019	10/12/2019			397.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-635 / ADMIN HALL: REPL FAN MOTOR			W1057135	10/24/2019			292.00
	001-100-635 / DISPATCH: #6 PULL-CLN COILS			W1057125	10/24/2019			105.00
001	JOSH LATCH	200385	11/19/2019	10/12/2019			66.93	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-681 / PER DIEM REIMB: MFIA SEMINAR			11012019	11/12/2019			66.93
001	LOCAL GOVERNMENT SERVICES LLC	200386	11/19/2019	10/12/2019			2,887.50	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-021-601 / FF SERVS: TELEPAK/CENTERPOINT			1816	10/10/2019			2,887.50
001	PITNEY BOWES INC	200387	11/19/2019	10/12/2019			337.07	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-092-698 / SUPPLIES: RED INK (2)			1014186120	10/23/2019			260.08
	001-092-698 / SUPPLIES: TAPE STRIPS (300)			1014186121	10/23/2019			76.99
001	POWELL CONSTRUCTION SERVICES INC	200388	11/19/2019	10/12/2019			345.60	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-201-637 / REPR G/V PED BUTTONS:SRE & HS			3046	10/31/2019			345.60
001	ACE DATA STORAGE INC	200389	11/19/2019	10/12/2019			105.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-699 / OCT 2019-SHREDDING SERVICE			68290	11/01/2019			105.00
001	AT&T MOBILITY	200390	11/19/2019	10/12/2019			130.81	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-605 / CELL SERV(3): 287294177255X			11052019	10/27/2019			130.81
001	C SPIRE WIRELESS	200391	11/19/2019	10/12/2019			782.65	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-021-605 / CITY MGR CELL PHONE			0030759348	10/31/2019			48.17
	001-040-605 / ADMIN CELL PHONES			0030759348	10/31/2019			130.53

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	C SPIRE WIRELESS	200391	11/19/2019	10/12/2019			782.65	(CONTINUED)

Account Number	Description	Invoice #	Date	P.O.	Amount
001-090-605	BLDG-PLNG CELL PHONES	0030759348	10/31/2019		151.07
001-090-698	IPAD SERVICE (3)	0030759348	10/31/2019		102.57
001-094-605	GRANT-PROJ CELL PHONES	0030759348	10/31/2019		96.34
001-170-605	RECREATION CELL PHONES	0030759348	10/31/2019		202.52
001-205-605	MAINT CELL PHONE	0030759348	10/31/2019		51.45

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	FUELMAN	200394	11/19/2019	10/12/2019			2,687.78	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-090-525	UNL FUEL	NP57206850	11/04/2019		48.68
001-100-525	UNL FUEL	NP57206850	11/04/2019		2,127.22
001-161-525	UNL & DSL FUEL	NP57206850	11/04/2019		346.77
001-170-525	UNL FUEL	NP57206850	11/04/2019		117.01
001-205-525	UNL FUEL	NP57206850	11/04/2019		48.10

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	FUELMAN	200398	11/19/2019	10/12/2019			2,591.59	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-090-525	UNL FUEL	NP57240698	11/11/2019		44.96
001-100-525	UNL FUEL	NP57240698	11/11/2019		1,902.74
001-161-525	UNL & DSL FUEL	NP57240698	11/11/2019		464.45
001-170-525	UNL FUEL	NP57240698	11/11/2019		128.43
001-205-525	UNL FUEL	NP57240698	11/11/2019		51.01

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	MSC 7511	200400	11/19/2019	10/12/2019			470.88	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-092-698	FFO200-01 RENTAL FEE	INV3365196	11/05/2019		470.88

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	CREDIT CARD CENTER	200401	11/19/2019	10/12/2019			532.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-021-681	HOTEL-BIRMINGHAM AL: YANCEY	325/KNGN	10/04/2019		132.25
001-001-681	HOTEL-BIRMINGHAM AL: TORJUSEN	433/KNGN	10/04/2019		132.25
001-060-602	HOTEL-BIRMINGHAM AL: DANOS	322/KNGN	10/04/2019		135.25
001-021-688	HOTEL-BIRMINGHAM AL: SEYMOUR	825/KNGN	10/04/2019		132.25

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	CREDIT CARD CENTER	200402	11/19/2019	10/12/2019			4,942.96	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-001-681	MML FALL BOD MTG: TORJUSEN	09272019	09/30/2019		112.00
001-001-681	MML FALL BOD MTG: MARTIN	09272019	09/30/2019		112.00
001-170-512	BRASS RAFFLE TICKET DRUM	09302019	10/01/2019		54.99
001-001-681	MML SM TOWN CONF: ANDERSON	09302019	10/01/2019		85.00
001-001-681	MML SM TOWN CONF: MARTIN	09302019	10/01/2019		85.00
001-001-681	MML SM TOWN CONF: VAUGHAN	09302019	10/01/2019		85.00
001-001-681	MML SM TOWN CONF: TORJUSEN	09302019	10/01/2019		85.00
001-170-512	CRUISIN: OFFICE SUPPLIES	10032019	10/04/2019		16.00
001-170-512	CRUISIN: LUNCH ITEMS	10032019	10/04/2019		121.61
001-170-512	CRUISIN: BANANAS	10062019	10/07/2019		8.49
001-170-512	CRUISIN: BREAKFAST ITEMS	10062019	10/07/2019		16.05
001-170-512	CRUISIN: LUNCH CKN STRIPS	10062019	10/07/2019		70.35
001-094-704	ADOBE CREATIVE CLOUD 1 YR	10092019	10/11/2019		599.88
001-170-513	HALLOWEEN: MASKS (300)	10092019	10/11/2019		154.62
001-094-681	FLIGHT-NGMA CONF: STENNETT	10092019	10/11/2019		364.60
001-170-535	CREDIT REFUND 26786176	10132019	10/14/2019		-14.97

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	CREDIT CARD CENTER	200402	11/19/2019	10/12/2019			4,942.96	(CONTINUED)

Account Number	Description	Invoice #	Date	P.O.	Amount
001-170-513	HALLOWEEN:B BAGS,SLIME,RINGS	10112019	10/14/2019		66.03
001-170-513	HALLOWEEN:NOVELTY ASST,PUMPKNS	10112019	10/14/2019		66.68
001-170-513	HALLOWEEN:SPIDERS,OWL ORN KITS	10112019	10/14/2019		68.31
001-170-513	HALLOWEEN:TREAT BAGS,RIBBON	10142019	10/15/2019		22.95
001-170-513	HALLOWEEN: OWL ORNAMENT KITS	10142019	10/16/2019		61.09
001-001-681	HOTEL CHARGE: BOTTLED WATER	10182019	10/21/2019		2.15
001-001-681	HOTEL-TUPELO: TORJUSEN,P	10182019	10/21/2019		388.00
001-001-681	HOTEL-TUPELO: MARTIN, M	10182019	10/21/2019		388.00
001-001-681	HOTEL-TUPELO: ANDERSON,C	10182019	10/21/2019		388.00
001-001-681	HOTEL TAX: REFUND REQUESTED	10182019	10/21/2019		35.89
001-040-681	HOTEL-TUPELO: FARABEE,S	10202019	10/21/2019		413.00
001-040-681	HOTEL TAX: REFUND RECVD (CK)	10202019	10/21/2019		38.21
001-001-509	GMYC: ROLLING UTILITY CRATE	10222019	10/23/2019		48.14
001-170-513	HALLOWEEN: HAY BALES	10232019	10/24/2019		68.00
001-092-698	MEMBERSHIP FEE: SAMS CLUB	10242019	10/28/2019		45.00
001-170-513	HALLOWEEN: SNACKS & TREATS	10252019	10/28/2019		197.42
001-040-681	HOTEL-HATTIESBURG: CLERK TRNG	10252019	10/28/2019		206.80
001-100-559	MGCCC TRUNK OR TREAT: CANDY	10252019	10/28/2019		483.67

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount
001	CINTAS CORPORATION NO 2	200404	11/19/2019	11/12/2019			390.35

Account Number	Description	Invoice #	Date	P.O.	Amount
001-205-535	MAINTENANCE	4031480434	10/02/2019		78.07
001-205-535	MAINTENANCE	4032017626	10/09/2019		78.07
001-205-535	MAINTENANCE	4032590385	10/16/2019		78.07
001-205-535	MAINTENANCE	4033146756	10/23/2019		78.07
001-205-535	MAINTENANCE	4033704039	10/30/2019		78.07

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount
001	CABLE ONE INC	200405	11/19/2019	11/12/2019			91.88

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-699	NOV 2019 SUBSTN: #107718827	11012019	11/08/2019		91.88

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount
001	DELTA COMPUTER SYSTEMS INC	200411	11/19/2019	11/12/2019			510.00

Account Number	Description	Invoice #	Date	P.O.	Amount
001-092-698	ACCTG SOFTWARE MAINT	MN102269	10/23/2019		350.00
001-092-698	PRIV LICENSE SOFTWARE MAINT	MN102269	10/23/2019		140.00
001-092-698	VOTER REG SOFTWARE MAINT	MN104839	10/31/2019		20.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount
001	CABLE ONE INC	200413	11/19/2019	11/12/2019			71.37

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-699	NOV CABLE BOX: #118476316	11012019	11/08/2019		71.37

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount
001	CABLE ONE INC	200414	11/19/2019	11/12/2019			213.68

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-699	NOV 2019: #107718371	11012019	11/08/2019		213.68

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount
001	AUTOZONE INC	200416	11/19/2019	11/12/2019			300.92

Account Number	Description	Invoice #	Date	P.O.	Amount
001-170-639	10W-40 OIL (2): POLARIS	4907623995	10/09/2019		19.58
001-170-639	1QT 5W-30 MOTOR OIL (24)	4907628727	10/17/2019		52.56
001-170-639	24QT OIL DRAIN CONTAINER	4907628727	10/17/2019		21.99
001-170-638	WIPER BLADE (2)	4907628727	10/17/2019		4.98

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	AUTOZONE INC	200416	11/19/2019	11/12/2019			300.92	(CONTINUED)

Account Number	Description	Invoice #	Date	P.O.	Amount
001-170-639	HD SAE 30 MOTOR OIL (12)	4907628727	10/17/2019		26.28
001-170-639	1QT 10W-30 MOTOR OIL (24)	4907628727	10/17/2019		52.56
001-170-639	DURALAST BATT: LIGHT PLANT	4907629012	10/18/2019		114.99
001-170-638	WIPER BLADE (2)	4907636912	10/31/2019		7.98

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	SEYMOUR ENGINEERING PLLC	200422	11/19/2019	11/13/2019			2,100.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-021-688	ENG SERVS: BIRMINGHAM MTG	7300	10/28/2019		2,100.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	CAN'T MISS EMBROIDERY	200428	11/19/2019	11/13/2019			1,362.50	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-535	POLO W/BADGE (5)	23464	10/21/2019	200030	129.90
001-100-535	BLACK JACKET W/GPD (9)	23527	11/04/2019	200073	299.25
001-100-535	BLACK JACKET W/GPD EMBLEM	23527	11/04/2019	200073	34.49
001-100-535	NAVY POLO W/BADGE (8)	23527	11/04/2019	200073	207.84
001-100-535	NAVY POLO W/BADGE (6)	23527	11/04/2019	200073	176.88
001-100-535	NAVY POLO W/GPD (2)	23527	11/04/2019	200073	73.96
001-100-535	BLACK POLO (4)	23527	11/04/2019	200073	103.92
001-100-535	BLACK POLO W/BADGE (3)	23527	11/04/2019	200073	88.44
001-100-535	BLACK POLO W/BADGE	23527	11/04/2019	200073	36.98
001-100-535	AST COLOR POLO W/BADGE (5)	23527	11/04/2019	200073	129.90
001-100-535	AST COLOR POLO W/GPD (3)	23527	11/04/2019	200073	80.94

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	ACTION PRINTING CENTER INC	200429	11/19/2019	11/13/2019			345.11	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-010-500	TRI COLOR RECEIPT PAPER(3000)	97864	11/12/2019	200056	345.11

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	GULF COAST BUSINESS SUPPLY CO	200430	11/19/2019	11/13/2019			185.97	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-161-510	12/CT BMF PAPER TOWELS (4)	197104	11/06/2019	200140	78.64
001-161-510	CS 409 CLEANER 32OZ	197104	11/06/2019	200140	42.42
001-161-510	DAWN LIQUID SOAP 38OZ (4)	197104	11/06/2019	200140	23.96
001-161-510	96/CT TISSUE	197104	11/06/2019	200140	32.99
001-161-510	COMET CLEANSER 21OZ (4)	197104	11/06/2019	200140	7.96

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	ANIMAL CARE EQUIPMENT &	200431	11/19/2019	11/13/2019			159.60	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-689	5PK TYPE P DART 1.5CC 1/2" (9)	76653	11/01/2019	200128	135.00
001-100-689	SHIPPING	76653	11/01/2019	200128	24.60

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	CUSTOM PRODUCTS CORPORATION	200432	11/19/2019	11/13/2019			362.34	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-201-565	STREET SIGNS (10)	327447	10/30/2019	200095	200.50
001-201-565	U-CHANNEL BRACKET 50/BX (10)	327447	10/30/2019	200095	48.10
001-201-565	5.5 CROSS BRACKET (10)	327447	10/30/2019	200095	48.90
001-201-565	BA NUTS VANDAL RESISTANT (20)	327447	10/30/2019	200095	18.00
001-201-565	BOLT CARRIAGE HEAD (20)	327447	10/30/2019	200095	9.80
001-201-565	NYLON WASHER (20)	327447	10/30/2019	200095	4.20
001-201-565	FREIGHT	327447	10/30/2019	200095	32.84

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	A-1 AUTO PARTS	200433	11/19/2019	11/13/2019			840.17	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-570	HEATER BLEND DOOR ACTUATOR	16273	10/31/2019	200122	24.17
001-100-570	DYE AND FREON 12OZ	16273	10/31/2019	200122	15.50
001-100-570	OIL	16273	10/31/2019	200122	5.50
001-100-570	R134 FRE 0.75	16273	10/31/2019	200122	9.75
001-100-570	HEATER CORE	16273	10/31/2019	200122	109.48
001-100-570	COOLANT	16273	10/31/2019	200122	14.95
001-100-570	SHOP SUPPLIES	16273	10/31/2019	200122	2.00
001-100-638	REMOVE AND REPLACE HEATER CORE	16273	10/31/2019	200122	608.40
001-100-638	VAC AND RECHARGE	16273	10/31/2019	200122	36.95
001-100-570	DIS STEELED WATER (2)	16273	10/31/2019	200122	3.00
001-100-570	FILTER	16273	10/31/2019	200122	9.47
001-100-570	HAZARDOUS MATERIALS: U #13408	16273	10/31/2019	200122	1.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	SUN HERALD ADVERTISING	200439	11/19/2019	11/13/2019			900.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-170-512	FULL PAGE COLOR AD: CRUISIN	I04389108	10/04/2019	191223	900.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	SUN HERALD ADVERTISING	200440	11/19/2019	11/13/2019			446.86	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-040-615	BID:OST WASTEWATER SYSTEM UPG	0004423877	10/18/2019	200082	203.86
001-040-615	NOTICE:DIVERT/WD PUBLIC WATERS	004435368	10/29/2019	200096	243.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	SOUTHERN REGIONAL SAFETY INST	200441	11/19/2019	11/13/2019			3,600.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-681	BASIC LEO ACADEMY: SLOVER,A	2357	10/29/2019	200007	3,600.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	STAPLES BUSINESS ADVANTAGE DEPT ATL	200442	11/19/2019	11/13/2019			1,110.38	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-090-500	INVISIBLE TAPE 12PK	3429116329	10/26/2019	200099	6.44
001-090-500	WHITE CARDSTOCK 65LB (2)	3429116329	10/26/2019	200099	31.66
001-090-500	POST-IT NOTES 3X3 YEL 12PK (2)	3429116329	10/26/2019	200099	19.38
001-090-500	BIC ATLANTIS PENS BLACK DZ (2)	3429116329	10/26/2019	200099	15.92
001-090-500	TZE231 LABEL MAKER TAPE (2)	3429116329	10/26/2019	200099	19.66
001-090-500	TZE211 LABEL MAKER TAPE (2)	3429116329	10/26/2019	200099	20.68
001-090-500	AAA BATTERIES 36PK	3429116329	10/26/2019	200099	19.29
001-090-500	HP 305A BLACK TONER (2)	3429116329	10/26/2019	200099	207.98
001-090-500	HP 305A COLOR TONER 3PK	3429116329	10/26/2019	200099	323.99
001-090-500	STORAGE CLIPBOARD GRAY	3429116329	10/26/2019	200099	9.39
001-090-500	LIQUID HIGHLIGHTERS AST 5PK	3429116329	10/26/2019	200099	3.15
001-040-500	SHARPIE PENS 12PK	3429116329	10/26/2019	200099	17.54
001-040-500	CS COPY PAPER (10)	3430215996	11/02/2019	200127	415.30

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	BARNEYS POLICE AND HUNTING SUPPLIES	200444	11/19/2019	11/13/2019			370.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-559	TARGET FULL SILHOUETTE (500)	32217	10/01/2019	200009	250.00
001-100-559	TARGET Q-FBI STYLE (200)	32217	10/01/2019	200009	100.00
001-100-559	SHIPPING	32217	10/01/2019	200009	20.00

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	CUPIT SIGNS INC	200445	11/19/2019	11/13/2019			160.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-090-638 / 12" DECALS W/CITY LOGO (10)			31718A	11/12/2019	200155		160.00
001	GRAFIX SHOPPE	200447	11/19/2019	11/13/2019			48.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-638 / PS REAR REFLECT GRAPHICS			130847	11/01/2019	200117		30.00
	001-100-638 / SHIPPING: U #9			130847	11/01/2019	200117		18.00
001	WATCHGUARD VIDEO	200448	11/19/2019	11/13/2019			152.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-639 / REPAIR BODY CAMERA: LABOR			INVOO19729	10/28/2019	200087		122.00
	001-100-639 / SHIPPING			INVOO19729	10/28/2019	200087		30.00
001	APOSTC LAW ENFORCEMENT ACADEMY	200449	11/19/2019	11/13/2019			30.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-681 / AWARENESS LE CRS: ALEXANDER,C			12132019	11/12/2019	200085		30.00
001	GLOCK PROFESSIONAL INC	200450	11/19/2019	11/13/2019			350.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-681 / GLOCK OPERATOR CRS: BOND, LEE			T100131826	10/31/2019	200156		350.00
001	AXON ENTERPRISE INC	200451	11/19/2019	11/13/2019			300.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-559 / SP CARTRIDGE BATT PK, X26 (6)			SI-1619432	10/28/2019	200089		300.00
001	ONEFACE LLC	200455	11/19/2019	11/13/2019			125.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-681 / FACIAL EXPRS CRS: LONGSTREET			000048	11/06/2019	200157		125.00
001	OCCUPATIONAL HEALTH CENTER INC	200456	11/19/2019	11/13/2019			280.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-604 / PRE-EMP DRUG SCREEN:CRAGER,C			189596	11/05/2019	191242		60.00
	001-022-604 / PRE-EMP PHYSICAL: HANEY, J			189596	11/05/2019	200088		65.00
	001-022-604 / PRE-EMP DRUG SCREEN: HANEY,J			189596	11/05/2019	200088		30.00
	001-100-604 / PRE-EMP DRUG SCREEN: REID, T			189596	11/05/2019	200061		60.00
	001-100-604 / PRE-EMP PHYSICAL: REID, T			189596	11/05/2019	200061		65.00
001	AUDIOWAVE INC	200458	11/19/2019	11/13/2019			151.50	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-638 / WINDOW TINT: U #9			A51123	11/05/2019	200116		151.50
001	SBM REPORTING LLC	200471	11/19/2019	11/14/2019			175.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-090-698 / 10/03/19 PLANNING MTG			MB1048	11/07/2019			175.00

FUND TOTAL 1 Claims to Checks 66 Total 85,797.22 Manual Held Total 85,797.22

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
130	CODY D DICKERSON	200475	11/19/2019	11/15/2019			28,000.00	_____

Account Number	Description	Invoice #	Date	P.O.	Amount
130-130-755	REPL FENCE,GRADE SITE:CH MAINT	11142019-1	11/14/2019		28,000.00

FUND TOTAL 130 Claims to Checks 1 Total 28,000.00 Manual Held Total 28,000.00

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
157	DEMANET BITE SUITS LLC	200454	11/19/2019	11/13/2019			1,590.00	
	Account Number 157-100-799	Description SEMI-TRAINING BITE SUIT		Invoice # 2034	Date 08/28/2019	P.O. 191147	Amount	1,590.00

FUND TOTAL 157 Claims to Checks 1 Total 1,590.00 Manual Held Total 1,590.00

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
176	GRAND VIEW SECURITY LLC	200384	11/19/2019	10/12/2019			300.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-699 ALARM MONITORING 11/19-11/20			1911011308	11/01/2019			300.00
176	C SPIRE WIRELESS	200392	11/19/2019	10/12/2019			51.45	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-605 CELL PHONE			0030759348	10/31/2019			51.45
176	LOWES HOME CENTERS INC	200393	11/19/2019	11/12/2019			261.52	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-586 SUPPLIES: CAMPSITE REPR			901003	10/04/2019			201.93
	176-170-559 13GAL CAN LINER (2)			911313	10/10/2019			24.66
	176-170-559 CLEANING GLOVES 100CT			911313	10/10/2019			14.52
	176-170-635 TERMINAL KIT: SHEP MOBILE HOME			901723	10/18/2019			20.41
176	FUELMAN	200396	11/19/2019	10/12/2019			24.28	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-525 UNL FUEL			NP57206850	11/04/2019			24.28
176	AIRGAS USA LLC	200435	11/19/2019	11/13/2019			33.69	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-559 OXYGEN IND 125 CG 540			9094599363	10/29/2019	200110		29.19
	176-170-559 HAZMAT CHARGE			9094599363	10/29/2019	200110		4.50

FUND TOTAL 176 Claims to Checks 5 Total 670.94 Manual Held Total 670.94

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
304	SEYMOUR ENGINEERING PLLC	200409	11/19/2019	11/12/2019			13,000.00	
	Account Number 304-510-763	Description TASK #2: SELECTIVE CLRG 75%		Invoice # 7298	Date 10/28/2019	P.O.	Amount	13,000.00
304	SEYMOUR ENGINEERING PLLC	200410	11/19/2019	11/12/2019			2,140.00	
	Account Number 304-510-762	Description TOPOGRAPHIC SURVEY 16.5 HRS		Invoice # 7299	Date 10/28/2019	P.O.	Amount	2,140.00

FUND TOTAL 304 Claims to Checks 2 Total 15,140.00 Manual Held Total 15,140.00

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
306	GOODWYN MILLS & CAWOOD INC	200412	11/19/2019	11/12/2019			4,740.00	
	Account Number 306-176-762	Description CONSTRN DOCS: WELC CENTER PH3		Invoice # MOB1900114	Date 11/28/2019	P.O.	Amount	4,740.00

FUND TOTAL 306 Claims to Checks 1 Total 4,740.00 Manual Held Total 4,740.00

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
307	HEFLIN ENGINEERING INC	200415	11/19/2019	11/12/2019			9,000.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
307-300-762	BACOT PARK: PRELIM DESIGN	3364	11/11/2019		9,000.00

FUND TOTAL 307 Claims to Checks 1 Total 9,000.00 Manual Held Total 9,000.00

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
308	HEFLIN ENGINEERING INC	200417	11/19/2019	11/12/2019			12,600.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
308-176-762	DESIGN PHASE (100%)	3363	11/11/2019		8,700.00
308-176-720	CONSTRUCTION PHASE (10%)	3363	11/11/2019		2,400.00
308-176-720	CONSTRUCTION STAKING	3363	11/11/2019		1,500.00

FUND TOTAL 308 Claims to Checks 1 Total 12,600.00 Manual Held Total 12,600.00

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
350	SEYMOUR ENGINEERING PLLC	200418	11/19/2019	11/12/2019			6,500.00	
	Account Number 350-721-603	Description DESIGN/PERMITTING 85%		Invoice # 7295	Date 10/28/2019	P.O.	Amount	6,500.00

FUND TOTAL 350 Claims to Checks 1 Total 6,500.00 Manual Held Total 6,500.00

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
351	SEYMOUR ENGINEERING PLLC	200419	11/19/2019	11/12/2019			4,518.60	
	Account Number 351-726-787	Description RES PROJ REP-CONSTR ADMIN		Invoice # 7296	Date 10/28/2019	P.O.	Amount	4,518.60

FUND TOTAL 351 Claims to Checks 1 Total 4,518.60 Manual Held Total 4,518.60

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
355	WAGGONER ENGINEERING INC	200420	11/19/2019	11/13/2019			81,600.00	
	Account Number 355-723-762	Description DESIGN: WTR SUPPLY & TRMT		Invoice # 36326	Date 11/07/2019	P.O.	Amount	81,600.00

FUND TOTAL 355 Claims to Checks 1 Total 81,600.00 Manual Held Total 81,600.00

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
360	SEYMOUR ENGINEERING PLLC	200421	11/19/2019	11/13/2019			38,176.50	

Account Number	Description	Invoice #	Date	P.O.	Amount
360-726-762	TOPOGRAPHIC SURVEY 80%	7297	10/28/2019		19,690.00
360-726-762	VIDEO EXISTING SWR INF 30%	7297	10/28/2019		6,000.00
360-726-762	ENGINEERING DESIGN 10%	7297	10/28/2019		12,486.50

FUND TOTAL 360 Claims to Checks 1 Total 38,176.50 Manual Held Total 38,176.50

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
400	O'REILLY AUTO PARTS	200329	11/19/2019	11/01/2019			49.46	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-638 5QT MOTOR OIL (2), FILTER (2)			1978147432	10/22/2019			41.48
	400-650-638 1QT MOTOR OIL (2): MR TRUCKS			1978147432	10/22/2019			7.98
400	IRBY'S ANSWERING SERVICE	200337	11/19/2019	11/04/2019			414.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-698 BASE RATE: 10/30/19-11/26/19			277-103019	10/30/2019			414.00
400	CLEARWATER SOLUTIONS LLC	200345	11/19/2019	11/06/2019			170,690.75	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-672 OCT 2019 OPERATION FEE			GAUTIER083	11/01/2019			170,690.75
400	WASTE MANAGEMENT OF MS-GLF COAST INC	200371	11/19/2019	11/08/2019			696.98	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-698 ROL - OFF TIMBERLANE			4308-47684	11/01/2019			696.98
400	LOWES HOME CENTERS INC	200395	11/19/2019	11/12/2019			56.13	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-635 FLUSH LEVER,TOILET KIT,GASKET			901035	10/09/2019			27.53
	400-650-635 DOOR ENTRY KNOB			902566	10/11/2019			13.76
	400-650-559 ROUND ROD (2), HM BLANK KEY(3)			902429	10/24/2019			14.84
400	FUELMAN	200397	11/19/2019	10/12/2019			125.04	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-525 UNL FUEL			NP57206850	11/04/2019			125.04
400	FUELMAN	200399	11/19/2019	10/12/2019			86.93	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-525 UNL FUEL			NP57240698	11/11/2019			86.93
400	JACKSON COUNTY UTILITY AUTHORITY	200403	11/19/2019	11/12/2019			406,739.48	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-668 OCT 2019 TREATMENT CHGS			535	10/01/2019			190,128.00
	400-651-668 FY 2018 ACTUAL FLOW ADJ			535	10/01/2019			10,731.00
	400-651-668 NOV 2019 TREATMENT CHGS			564	11/01/2019			190,128.00
	400-651-668 FY 2018 ACTUAL FLOW ADJ			564	11/01/2019			10,731.00
	400-651-668 OCT 2019 INTEREST PENALTY			582	11/12/2019			5,021.48
400	COGENT STRATEGIES LLC	200406	11/19/2019	11/12/2019			7,500.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-601 PROFESSIONAL FEES			1697	11/05/2019			7,500.00
400	SOUTHERN LINC	200407	11/19/2019	11/12/2019			89.32	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-698 NOV 2019 SERV CHGS			10623134	11/01/2019			80.00
	400-650-698 TAXES/FEES			10623134	11/01/2019			9.32

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400	MISSION COMMUNICATIONS LLC	200408	11/19/2019	11/12/2019			1,737.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-698 RENEWAL: ROBERT HIRAM			1034873	11/04/2019			347.40
	400-651-698 RENEWAL: BAYOU PIERRE			1034873	11/04/2019			347.40
	400-651-698 RENEWAL: WEST PARK			1034873	11/04/2019			347.40
	400-651-698 RENEWAL: PLAYERS COVE			1034873	11/04/2019			347.40
	400-651-698 RENEWAL: OCEAN ESTATES			1034873	11/04/2019			347.40
400	SOUTHERN PIPE & SUPPLY	200434	11/19/2019	11/13/2019			1,772.28	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-583 23-3/4 M/HOLE ONLY COVER			3362381-00	10/14/2019	191152		179.00
	400-651-583 6X1 CC SS DBL STRAP SADDLE (4)			3362381-00	10/14/2019	191152		210.00
	400-651-583 3/4 CCXCTS PJ CORP STOP (4)			3362381-00	10/14/2019	191152		132.40
	400-651-583 R&C MARKED SEWER (3)			3362381-00	10/14/2019	191152		600.00
	400-651-583 8 PLASTIC X8 PLASTIC CPLG (6)			3362381-00	10/14/2019	191152		90.00
	400-651-581 3/4" FIPXFIP BALL CURB LW (9)			3593390-00	10/29/2019	200107		560.88
400	HENZE ENTERPRISES INC	200436	11/19/2019	11/13/2019			435.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-683 15 CY TOPSOIL (2)			28884	10/29/2019	200105		435.00
400	CONSOLIDATED PIPE & SUPPLY	200437	11/19/2019	11/13/2019			400.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-581 MEGALUG C-900/IPS (10)			3793513000	11/06/2019	200142		300.00
	400-651-581 REG MJ B&G SET L/GLD (10)			3793513000	11/06/2019	200142		100.00
400	CENTRAL PIPE SUPPLY-JACKSON	200438	11/19/2019	11/13/2019			478.56	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-581 2"X6" BRASS STD NIPPLE (6)			1001958981	10/24/2019	200069		132.00
	400-651-581 2"X8" BRASS STD NIPPLE (5)			1001958981	10/24/2019	200069		155.00
	400-651-581 1" CTSX3" FULL CIRCLE (6)			1001958981	10/24/2019	200069		160.56
	400-651-581 2"X8" BRASS STD NIPPLE			1001958983	10/29/2019	200069		31.00
400	STAPLES BUSINESS ADVANTAGE DEPT ATL	200443	11/19/2019	11/13/2019			149.22	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-500 2020 15X22 WALL CALENDAR			3429770184	11/01/2019	200120		14.27
	400-650-500 2020 7X8 MONTHLY PLANNER (5)			3429770184	11/01/2019	200120		63.85
	400-650-500 2020 22X17 DESK PAD CAL (3)			3429770184	11/01/2019	200120		14.97
	400-650-500 2020 20X30 WALL CALENDAR (3)			3429770184	11/01/2019	200120		56.13
400	G & O SUPPLY CO, INC	200446	11/19/2019	11/13/2019			1,610.42	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-683 24"X 20' HDPE SOLID PIPE (80)			G11798	11/04/2019	200104		1,564.00
	400-651-683 24" SPLIT COUPLING			G11798	11/04/2019	200104		46.42
400	MUSCO-GULFPORT 1227	200452	11/19/2019	11/13/2019			331.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-581 12 HYD EXT 5-1/4			0652368	10/30/2019	200083		331.00

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400	JB CUSTOM FENCE	200453	11/19/2019	11/13/2019			3,000.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-584 6 AND 8FT SHADOWBOX PRIV FENCE			158	11/03/2019	200071		2,500.00
	400-651-584 DOUBLE GATE			158	11/03/2019	200071		250.00
	400-651-584 DEMO/HAUL OFF: SOUTH HAVEN LS			158	11/03/2019	200071		250.00
400	LYMAN WELL COMPANY	200457	11/19/2019	11/13/2019			4,800.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-581 PULL & VIDEO: BEASLEY WELL			10403	10/30/2019	191217		4,800.00
400	AUDIOWAVE INC	200459	11/19/2019	11/13/2019			452.49	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-702 3" STEP BAR CAB LENGTH			A51108	11/01/2019	200093		377.49
	400-650-702 INSTALL FEE: PROJ ADM TRUCK			A51155	11/07/2019	200093		75.00
400	J H WRIGHT & ASSOCIATES INC	200460	11/19/2019	11/13/2019			2,997.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-584 FILL COVER PLATE ASMBLY (8)			419184	10/25/2019	191215		480.00
	400-651-584 FILL COVER O-RING ENCAP (8)			419184	10/25/2019	191215		272.00
	400-651-584 FREIGHT: LIFT STATIONS			419184	10/25/2019	191215		25.00
	400-651-584 REWIRE DUPLEX CTL PANEL:LABOR			419418	11/05/2019	200115		2,100.00
	400-651-584 SQUARE D MOTOR HEATER (6)			419279	10/29/2019	200103		120.00
400	SINGING RIVER ELECTRIC COOPERATIVE	200467	11/19/2019	11/13/2019			3,673.86	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-631 LIFT STNS 17875			10192019	10/29/2019			218.50
	400-651-631 LIFT STNS 17883			10192019	10/29/2019			1,768.38
	400-651-631 LIFT STNS 17884			10192019	10/29/2019			1,686.98

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Release date from 11/19/2019 thru 11/19/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
404	DELTA SANITATION OF MS LLC	200340	11/19/2019	11/05/2019			105,153.87	
	Account Number 404-677-693	Description OCT 2019 RES GARBAGE (6248)		Invoice # 0001059462	Date 10/31/2019	P.O.	Amount 105,153.87	

FUND TOTAL 404 Claims to Checks 1 Total 105,153.87 Manual Held Total 105,153.87

Docket of Claims
Release date from 11/19/2019 thru 11/19/2019

SUMMARY OF ALL FUNDS

FUND 1	Claims	to	Checks	66	Total	85,797.22	Manual	Held	Total	85,797.22
FUND 130	Claims	to	Checks	1	Total	28,000.00	Manual	Held	Total	28,000.00
FUND 157	Claims	to	Checks	1	Total	1,590.00	Manual	Held	Total	1,590.00
FUND 176	Claims	to	Checks	5	Total	670.94	Manual	Held	Total	670.94
FUND 304	Claims	to	Checks	2	Total	15,140.00	Manual	Held	Total	15,140.00
FUND 306	Claims	to	Checks	1	Total	4,740.00	Manual	Held	Total	4,740.00
FUND 307	Claims	to	Checks	1	Total	9,000.00	Manual	Held	Total	9,000.00
FUND 308	Claims	to	Checks	1	Total	12,600.00	Manual	Held	Total	12,600.00
FUND 350	Claims	to	Checks	1	Total	6,500.00	Manual	Held	Total	6,500.00
FUND 351	Claims	to	Checks	1	Total	4,518.60	Manual	Held	Total	4,518.60
FUND 355	Claims	to	Checks	1	Total	81,600.00	Manual	Held	Total	81,600.00
FUND 360	Claims	to	Checks	1	Total	38,176.50	Manual	Held	Total	38,176.50
FUND 400	Claims	to	Checks	23	Total	608,284.92	Manual	Held	Total	608,284.92
FUND 404	Claims	to	Checks	1	Total	105,153.87	Manual	Held	Total	105,153.87
	Total for all Funds		Checks	106	Total	1,001,772.05	Manual	Held	Total	1,001,772.05

CITY OF GAUTIER
Consent Agenda Item #1
Fact Sheet

Council Meeting: November 19, 2019
Title: Receive October 2019 Privilege License Report

Introduced by:
Contact Person/Telephone Cynthia Russell 497-8000 ext. 302

Summary Explanation: Receive October 2019 Privilege License Report

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract	☐
Minutes	☐
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	City Manager

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	Martin	☐	George	☐	Jackson	☐	Vaughan	☐	Anderson	☐	Colledge	☐

Second Made by:													
Torjusen	☐	Martin	☐	George	☐	Jackson	☐	Vaughan	☐	Anderson	☐	Colledge	☐

Voted as follows:		Ayes	Nays	Abstained	Absent
Mayor	Torjusen	☐	☐	☐	☐
At Large	Martin	☐	☐	☐	☐
Ward 1	George	☐	☐	☐	☐
Ward 2	Jackson	☐	☐	☐	☐
Ward 3	Vaughan	☐	☐	☐	☐
Ward 4	Anderson	☐	☐	☐	☐
Ward 5	Colledge	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 000-2019

WHEREAS, Miss. Code Ann. 27-17-501 requires the governing authority of municipalities to receive a report of the privilege licenses issued during the preceding month; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the Privilege License Report for October 2019 is hereby received.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **BLANK,** seconded by **BLANK** and the following vote was recorded:

AYES:

NAYS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

BLANK by the Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

		City of Gautier		
		Business Registry		
		Oct-19		
ACCOUNT#	**LICENSE #**	**BUSINESS NAME/OWNER**	**AMOUNT**	**STATUS**
7	2020-10-0006576	Auto Truck & Trailer Parts	$20.00	Current
62	2020-10-0006577	Town & Country Veterinary Hospital	$30.00	Current
9	2020-10-0006578	Coast Construction	$20.00	Current
941	2020-10-0006579	Victory Chiropractic Center	$20.00	Current
8	2020-10-0006580	Burger King	$30.00	Current
1185	2020-10-0006581	Aztecas	$60.00	Current
1388	2020-10-0006582	Auto Zone	$50.00	Current
30	2020-10-0006583	Hucks Coves	$51.00	Current
* 1624	2020-10-0006584	Patricia Rhinehart/GAMP	$20.00	New Business
32	2020-10-0006585	Indian Point RV Resort	$30.00	Current
27	2020-10-0006586	Hardee's	$36.00	Current
61	2020-10-0006587	MHC Trust, DBA Thousand Trails	$150.00	Current
876	2020-10-0006588	Redbox Automated Retail	$90.00	Current
20	2020-10-0006589	First Federal Savings & Loan	$30.00	Current
19	2020-10-0006590	Southern Oil Company, Fast Mart	$40.00	Current
1234	2020-10-0006591	Shoe Department	$122.50	Current
39	2020-10-0006592	Magnolia Oaks Apartments	$20.00	Current
1507	2020-10-0006593	The MRI Center at East Lake	$30.00	Current
1625	2020-10-0006594	Spay Nueter Impact Project	$30.00	New Business
1285	2020-10-0006595	Walden Auto Repair	$20.00	Current
878	2020-10-0006596	Pearson Builders	$20.00	Current
1387	2020-10-0006597	Spanish Trail Lanes	$51.00	Current
3	2020-10-0006598	Advanced American Auto, LLC	$20.00	Current
26	2020-10-0006599	Whitney Bank	$30.00	Current
1626	2020-10-0006600	Acme Electric LLC (New Location)	$20.00	New Business
54	2020-10-0006601	Spa & Tub Manufacturing	$32.50	Current
50	2020-10-0006602	Shanghai Restaurant	$35.00	Current
1627	2020-10-0006603	Wallace Apartments	$20.00	Current
1184	2020-10-0006604	Toulon Apartments	$30.00	Current
1284	2020-10-0006605	Clark's Attic LLC	$20.00	Current
873	2020-10-0006606	Final Enviromental Service	$20.00	Current
53	2020-10-0006607	Sioux Bayou Arms, LLC	$20.00	Current
52	2020-10-0006608	Singing River Grocery	$40.00	Current
1509	2020-11-0006609	Allstate Insurance	$20.00	Current
1343	2020-11-0006610	Mattresses of Mississippi	$20.00	Current
1239	2020-11-0006611	Wonder Nails & Spa	$30.00	Current
534	2020-09-0006612	Belk	$2,024.00	Delinquent
91	2020-11-0006613	Isle of Pines Trailer Park	$20.00	Current
1394	2020-12-0006614	Another Dimension Home	$23.80	Delinquent
1628	2020-10-0006615	Essentials Scrubs & Beyond LLC	$20.00	New Business
111	Closed	Rustic Inn	$0.00	Closed
63	2020-10-0006616	Waffle House, Inc.	$60.00	Current
23	2020-10-0006617	Gautier Aniaml Clinic	$20.00	Current
1629	2020-10-0006618	Roma Italian Restaurant	$45.00	New Business
1177	2020-10-0006619	Firestone of Gautier	$20.00	Current
1453	2020-11-0006620	Divine Inspirations	$30.00	Current
1505	2020-10-0006621	Kay Lynn Salon	$20.00	Current
1506	2020-10-0006622	HII Family Vision Center	$20.00	Current
278	2020-10-0006623	Mowa Development, LLC	$30.00	Current
		Total	**$3,660.80**	
		New Business	5	
		Transient Vendor	0	
		Closed Business	1	
		Delinquent Renewals Issued	2	

* Great American Market Place*

CITY OF GAUTIER
Consent Agenda Item #2
Fact Sheet

Council Meeting:	**November 19, 2019**
Title:	**Authorization to enter into a Lease Purchase Agreement with Motorola Solutions and approval of a $50,000 down payment from the "Wireless Communication Funds"**
Introduced by:	
Contact Person/Telephone	**Chief Dante Elbin 497-8007**

Summary Explanation: Authorization to enter into a Lease Purchase Agreement with Motorola Solutions and approve a $50,000 down payment from the "Wireless Communication Funds"

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract/Agreement	☒
Minutes	☐
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	**City Manager**

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Second Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Voted as follows:		**Ayes**	**Nays**	**Abstained**	**Absent**
Mayor	**Torjusen**	☐	☐	☐	☐
At Large	**Martin**	☐	☐	☐	☐
Ward 1	**George**	☐	☐	☐	☐
Ward 2	**Jackson**	☐	☐	☐	☐
Ward 3	**Vaughan**	☐	☐	☐	☐
Ward 4	**Anderson**	☐	☐	☐	☐
Ward 5	**Colledge**	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 000-2019

WHEREAS, the Gautier Police Department is seeking authorization to enter into a Lease Purchase Agreement with Motorola Solutions for purchasing thirty (30) Motorola APX 4500 mobile radios and thirty (30) Motorola APX 4000 portable radios in the amount of $113,038.00; and

WHEREAS, Motorola Solutions is offering a proposal to the City of Gautier for a Lease Purchase Agreement in three options. Option 1- Lease term of three years at annual payment of $56,046.00 at zero percent interest. Option 2- Lease term of five years, 3.67% interest, at an annual payment of $34,348.57. Option 3Lease term of seven years, 3.73% interest, annual payment of $25,272.08; and

WHEREAS, the Gautier Police Department currently contributes to the "Wireless Communication Program" of the Mississippi Department of Public Safety. At this time, the City of Gautier has $55,760.76 in the wireless account; and

WHEREAS, the Gautier Police Department would like to request $50,000 be withdrawn from the Wireless Account and be applied as a down payment on Option 1 from Motorola Solutions proposal;

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the City of Gautier is hereby authorized the Gautier Police Department to enter into Option 1 of the a Lease Purchase Agreement at an annual payment of $56,046.00 at zero percent interest and allow the City of Gautier to withdraw $50,000.00 from the Wireless Communication Account to apply as a down payment.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **BLANK** seconded by **BLANK** and the following vote was recorded:

AYES:

NAYS:

_____

MAYOR

ATTEST:

_____

CITY CLERK

BLANK by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: Danny Selover, Police
Date: 11/7/2019
Subject: Request City Council approval to enter into a Lease/Purchase Agreement with Motorola Solutions and approve a $50,000 down payment from the "Wireless Communication Funds"

REQUEST:
The Gautier Police Department is seeking authorization from the City Council to accept a Lease /Purchase Agreement with Motorola Solutions for purchasing thirty (30) Motorola APX 4500 mobile radios and thirty (30) Motorola APX 4000 portable radios in the amount of $113,038.00. This purchase would replace our "End of Life "entire radio system and be capable to transition into a quality, digital talk group that all of Jackson County currently use.

BACKGROUND:
Motorola Solutions is offering a proposal to the City of Gautier for a Lease /Purchase Agreement in three options. Option 1 Lease term of three years at annual payment of $56,046.00 at zero percent interest. Option 2 Lease term of five years, 3.67% interest, at annual payment of $34,348.57. Option 3 Lease Term of seven years, 3.73% interest, annual payment of $25,272.08. (See Attached).

DISCUSSION:
The Gautier Police Department has and currently do contribute to the "Wireless Communication Program" of the Mississippi Department of Public Safety. The funds collected are from certain traffic offenses our officers have issued. These funds accumulate until they are needed, such as times like this. At this time the City of Gautier has $55,760.76 in the wireless account. The Gautier Police Department would like to request $50,000.00 be withdrawn from this Wireless Account and be applied as a down payment on Option 1 from Motorola Solutions proposal. .

RECOMMENDATION:
The City Council approve entering into Option 1 of the Motorola Solutions Lease/purchase agreement and allow for the City of Gautier to withdraw $50,000.00 from the Wireless Communication Account and apply it as a down payment to Motorola Solutions Lease/ Purchase.

ATTACHMENTS:
1. Correspondents
2. Consent Agenda Item 2 - Request City Council approval to enter into a Lease-Purchase Agreement with Motorola Solutions and approve a $50,000 down paym

MOTOROLA SOLUTIONS

QUOTE-805880

10/17/2019

GAUTIER, CITY OF
P O BOX 670
GAUTIER, MS 39553

Dear Capt. Danny Selover,

Motorola Solutions, Inc. is pleased to present GAUTIER, CITY OF with this quote for quality communications equipment and services. The development of this quote provided us the opportunity to evaluate your requirements and propose a solution to best fulfill your communications needs.

This information is provided to assist you in your evaluation process. Our goal is to provide GAUTIER, CITY OF with the best products and services available in the communications industry. Please direct any questions to Jonathan Harkey at jonathanharkey@teamonecomm.com.

We thank you for the opportunity to provide you with premier communications and look forward to your review and feedback regarding this quote.

Sincerely,

Jonathan Harkey

Motorola Solutions Manufacturer's Representative

GAUTIER POLICE DEPARTMENT

3329 HIGHWAY 90 - GAUTIER, MS 39553
(228) 497-2486 Fax (228) 497-8018

To: Paula Yancey, City Manager

From: Danny Selover, Captain of Administration

Date: October 31, 2019

Subject: Wireless Communication Funds

Attached please find a draft letter to the Mississippi Department of Public Safety requesting funds, $50,000.00, contributed to the "Wireless Communication Program," to assist with the necessary funding for the purchase of 30 Motorola APX4500 mobile radios and 30 Motorola APX 4000 portable radios. Our current portable and mobile radios have passed their "End of Life Cycle" and Motorola will no longer service them nor are they producing replacement parts.

The funds in the Wireless Communication Program in Jackson accumulate from the surcharge on traffic tickets we write. The funds continue to grow in the Wireless Communication Program, our goal is to utilize the money for a down payment on a Municipal Lease-Purchase Agreement/ Tax Exempt Financing proposal from Motorola Solutions. This purchase will allow the City of Gautier radio system to operate under quality, digital capabilities, as all of Jackson County Emergency Services currently utilize. This project will help maintain the professional services our citizens are used to being provided by the City of Gautier's Police Department.

As per the Department of Public Safety's usual procedure, they require the request for funds be submitted by the Mayor of the requesting city. Therefore, I would like to request the Council's approval for Mayor Phil Torjusen to submit a request for the necessary funds needed for the cost of the radio system.

If you have any questions concerning this matter, please feel free to call me. A draft letter from the Mayor has been included for your convenience.

Sincerely Submitted,

Capt Danny Selover

Danny Selover

Enclosures (2)

TAKE A BITE OUT OF CRIME

PROTECT AND SERVE

JUSTICE

GAUTIER POLICE DEPARTMENT

3329 HIGHWAY 90 - GAUTIER, MS 39553
(228) 497-2486 Fax (228) 497-8018

October 31, 2019

Ms. Amanda McCool
Mississippi Department of Public Safety
P.O. Box 958
Jackson, MS 39205

RE: Wireless Communication Fund

Dear Ms. McCool:

The City of Gautier is requesting $50,000.00 from the available funds that we have contributed to the "Wireless Radio Communication Program." The funds will provide a down payment on a Motorola Municipal Lease/Purchase Agreement for the necessary funding for the purchase of 30 Motorola APX 4500 mobile radios and 30 Motorola APX4000 portable radios. Our current radios have passed their "End of Life Cycle" and Motorola will no longer service them in the near future nor are they producing replacement parts.

The amount requested will enable the Gautier Department to provide officers with quality digital mobile and portable radios. This will help maintain the professional services our citizens are used to being provided by the City of Gautier's Police Department.

Respectfully,

Phil Torjusen
Mayor
City of Gautier

MOTOROLA SOLUTIONS

OPT 1

Date:	October 31, 2019
Financing proposal for:	**City of Gautier, MS Police Dept**

Motorola Customer Financing recognizes that each opportunity presents unique issues and characteristics. Therefore, our approach involves understanding our customer's operational goals and financial objectives. ***Should you feel another financing structure is required, Motorola Customer Financing would welcome the opportunity to work with you.***

Transaction Type:	Municipal Lease-Purchase Agreement / Tax Exempt Financing
Lessor:	Motorola Solutions, Inc. (or its Assignee)
Lessee:	**City of Gautier, MS Police Dept**
Amount:	$163,038.00
Down Payment:	$50,000.00
Balance to Finance:	$113,038.00
Equipment:	As per the Motorola Solutions equipment proposal.
Title, Insurance, & Maintenance	Title to the equipment will vest with the Lessee, and the Lessee will be responsible to insure & maintain the equipment as outlined in the lease contract.
Taxes:	Personal property, sales, leasing, use, stamp, or other taxes are for the account of the Lessee.

	Option One	Option Two	Option Three
Lease Term:	Three Years	Five Years	Seven Years
Payment Frequency:	Annual	Annual	Annual
Lease Rate Year 1-3:	0%	0%	0%
Lease Rate the following years:		3.67%	3.73%
Lease Factor:	0.333333	0.204288	0.150306
Lease Payment:	$37,679.33	$23,092.30	$16,990.24
Payment Structure:	Arrears	Arrears	Arrears
Payment Commencement:	First payment due one year after contract execution.	First payment due one year after contract execution.	First payment due one year after contract execution.

Please be advised the rates above are indicative of current market conditions and should be used for INFORMATIONAL PURPOSES ONLY. The actual lease rates will be locked on a mutually agreed upon date closer to the actual order date and will reflect then-current market conditions.

Program Highlights:

Lease Payments are subject to annual appropriation, so the Lessee ***DOES NOT*** pledge its full faith and credit.

Low, tax exempt financing interest rates...the most ***cost effective & convenient*** way for State & Locals to raise cash.

No pre-payment penalties provided payment is made on a regularly scheduled lease payment date.

Eliminate miscellaneous financing costs associated with bonding...***NO*** special counsel fees, underwriter's fees, origination costs, or reserve fund requirements. ***Every dollar you borrow gets allocated towards your project.***

Qualifications:

Receipt of a properly executed documentation package.

The interest portion of the Lease Payments shall be excludable from the Lessor's gross income pursuant to Section 103 of the Internal Revenue Code.

Receipt of a copy of the last 2 year's audited financial statements and current year's budget from the Lessee.

This proposal should not be construed as a commitment to finance. It is subject to final credit approval.

For questions concerning this quote, please contact:

Hannah Cliff
Motorola Solutions Credit Company LLC
847-260-7133
hannah.cliff@motorolasolutions.com

MOTOROLA SOLUTIONS

QUOTE-805880

Billing Address:
GAUTIER, CITY OF
P O BOX 670
GAUTIER, MS 39553
US

Quote Date:10/17/2019
Expiration Date:01/15/2020
Quote Created By:
Jonathan Harkey
jonathanharkey@teamonecomm.com

Customer:
GAUTIER, CITY OF
Capt. Danny Selover
dselover@gautier-ms.gov
228-219-5143

Contract: 21726 - MISSISSIPPI-MSWIN
Payment Terms:30 NET

Line #	Item Number	Description	Qty	List Price	Contract Price	Ext. Sale Price
	PACKAGE	APX 4000 M2 w/P25 Software	30			$78,660.00
1	H51UCF9PW6AN	APX 4000 7/800 MHZ MODEL 2 PORTABLE	30	$1,963.00	$959.15	$28,774.50
1a	H43BJ	ENH: TRUNKED RADIO TRACE/ REMOTE MO	30	$75.00	$63.75	$1,912.50
1b	QA01648AA	ADD: HW KEY SUPPLEMENTAL DATA	30	$5.00	$4.25	$127.50
1c	G996AZ	ADD: PROGRAMMING OVER P25 (OTAP)	30	$100.00	$85.00	$2,550.00
1d	QA06397AA	DEL: GPS ACTIVATION APX	30	$0.00	$0.00	$0.00
1e	QA02756AB	ENH: 3600 OR 9600 TRUNKING BAUD SINGLE SYSTEM	30	$1,570.00	$934.50	$28,035.00
1f	QA00580AF	ADD: TDMA OPERATION	30	$450.00	$382.50	$11,475.00
1g	H885BK	ADD: 3Y ESSENTIAL SERVICE	30	$90.00	$90.00	$2,700.00
2	PMMN4069A	MICROPHONE,IMPRES RSM, 3.5MM JACK, IP55	30	$133.00	$102.85	$3,085.50
	PACKAGE	APX 4500 Dash Mount No OTAP	30			$80,100.00

Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the ""Underlying Agreement"") that authorizes Customer to purchase equipment and/or services or license software (collectively ""Products""). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of use and Purchase Terms and Conditions govern the purchase of the Products.

Line #	Item Number	Description	Qty	List Price	Contract Price	Ext. Sale Price
3	M22URS9PW1AN	APX4500 7/800 MHZ	30	$1,564.00	$795.55	$23,866.50
3a	G24AX	ENH: 3 YEAR ESSENTIAL SVC	30	$131.00	$131.00	$3,930.00
3b	QA01648AA	ADD: HW KEY SUPPLEMENTAL DATA	30	$5.00	$4.25	$127.50
3c	GA00235AA	ADD: NO GPS ANTENNA NEEDED APX	30	$0.00	$0.00	$0.00
3d	GA00580AD	ADD: TDMA OPERATION	30	$450.00	$382.50	$11,475.00
3e	QA06397AA	DEL: GPS ACTIVATION APX	30	$0.00	$0.00	$0.00
3f	G142AD	ADD: NO SPEAKER APX	30	$0.00	$0.00	$0.00
3g	QA02756AD	ADD: 3600 OR 9600 TRUNKING BAUD SINGLE SYSTEM	30	$1,570.00	$734.50	$22,035.00
3h	GA00804AA	ADD: APX O2 CH (GREY)	30	$492.00	$418.20	$12,546.00
3i	G444AH	ADD: APX CONTROL HEAD SOFTWARE	30	$0.00	$0.00	$0.00
3j	W22BA	ADD: STD PALM MICROPHONE APX	30	$72.00	$61.20	$1,836.00
3k	G174AF	ADD: ANT 3DB LOW-PROFILE 762-870	30	$43.00	$36.55	$1,096.50
3l	G66AW	ADD: DASH MOUNT O2 CH WWM	30	$125.00	$106.25	$3,187.50
4	PMPN4174A	CHGR DESKTOP SINGLE UNIT IMPRES, US/NA	30	$76.00	$64.60	$1,938.00
5	LSV00Q00202A	DEVICE PROGRAMING	60	$39.00	$39.00	$2,340.00

Grand Total $163,038.00(USD)

Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the ""Underlying Agreement"") that authorizes Customer to purchase equipment and/or services or license software (collectively ""Products""). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of use and Purchase Terms and Conditions govern the purchase of the Products.

From:	Amanda McCool
To:	dselover@gautier-ms.gov
Subject:	Wireless Balance
Date:	Friday, November 01, 2019 9:26:37 AM
Attachments:	image003.png

Captain,

The City of Gautier's available wireless balance is $55,760.76. Please let me know if I can assist with anything further.

Thanks,

Amanda McCool
Staff Officer
Mississippi Department of Public Safety
P. O. Box 958
Jackson, MS 39205
Office: (601) 987-1300

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Dante Elbin

From: kwinter@mschiefs.org
Sent: Monday, May 23, 2016 4:29 PM
To: delbin@gautier-ms.gov
Subject: MACP NEWS AND VIEWS MAY 23rd, 2016

I am posting a section of Senate Bill 2362 from this years session. this bill is the one that sweeps all special fund monies over to the General fund. They claim to have done it for transparency and better accounting of state funds. The below section deals with section 63-9-31 which sets up the wireless technology fund account. Now if your agency and city/county did not vote by ordinance to send an additional $10.00 assessment in on each traffic citation and have not been using those funds for wireless technology you have no worries. However, for all of the agencies that have been doing this since 1999 and depend on these funds for things like cell phones, wireless cards, radios, computers,etc. Guess what; even though this is your city/county's money, the legislature has decided to move it over to the general fund. The money is housed in a special fund at DPS/public safety planning presently and the legislators will tell you that it is simply a matter of the money being re-appropriated through a budget request by DPS. Here is the problem: The money was not appropiated in this years DPS budget either. So, your money that you have depended on to extend your budget and provide for these essential commodities and equipment will be swallowed up in the state general fund and will essentially disappear. This is a serious issue and one I would advise each of you to be speaking with your Mayor and boards and request an explanation from your legislators as well. Good Luck on getting a straight answer from your Senators or Representatives. We have not been able to get one that makes sense.

Excerpt from Senate Bill 2362:

1582 SECTION 17. Section 63-9-31, Mississippi Code of 1972, is 1583 amended as follows: 1584 63-9-31. (1) In addition to any other monetary penalties 1585 and other penalties imposed by law, any county, municipality or S. B. No. 2362 *SS26/R497SG* ~ OFFICIAL ~ 16/SS26/R497SG PAGE 65 1586 the Pearl River Valley Water Supply District Patrol which 1587 participates in a wireless radio communications program approved 1588 by the applicable governing authorities may assess an additional 1589 surcharge in an amount not to exceed Ten Dollars ($10.00) on each 1590 person upon whom a court imposes a fine or other penalty for each 1591 violation of Title 63, Mississippi Code of 1972, except offenses 1592 relating to vehicular parking or registration. On all citations 1593 issued by Mississippi Highway Safety Patrol officers, a surcharge 1594 in the amount of Ten Dollars ($10.00) shall be collected by the 1595 court and deposited as provided in subsection (2) of this section. 1596 The proceeds from the surcharge on citations issued by county and 1597 municipal law enforcement officers or the Pearl River Valley Water 1598 Supply District Patrol may be used by a county or municipality 1599 only to fund that county's or municipality's or the Pearl River 1600 Valley Water Supply District Patrol's participation in the 1601 wireless radio communications program by funding public safety 1602 wireless communications systems and related computer and 1603 communications equipment. The proceeds from the surcharge on 1604 citations issued by Mississippi Highway Safety Patrol officers 1605 shall be used as provided in subsection (2) of this section. All 1606 proceeds from the surcharge imposed by this subsection shall be 1607 deposited into a special fund in the Department of Public Safety's 1608 Office of Public Safety Planning. The Office of Public Safety 1609 Planning shall promulgate rules and procedures relating to the 1610 administration of the special fund and the disbursement of monies S. B. No. 2362 *SS26/R497SG* ~ OFFICIAL ~ 16/SS26/R497SG PAGE 66 1611 in the fund to participating governmental entities. The maximum 1612 amount that a governmental entity may receive from the special 1613 fund shall be an amount equal to the deposits made into the fund 1614 by that entity, less one percent (1%) to be retained by the Office 1615 of Public Safety Planning to defray the costs of administering the 1616 special fund. Interest earned on the special fund shall remain in 1617 the fund and shall be used by the Office of Public Safety Planning 1618 to further defray the costs of administering the special fund. 1619 (2) Deposits into the special fund resulting from citations 1620 issued by the Mississippi Highway Safety Patrol shall be utilized 1621 as follows: Fifty percent (50%) of the deposits into the special 1622 fund shall be used to automate the citations issued by Mississippi 1623 Highway Safety Patrol officers (including the transmittal of 1624 citations to the justice court, retrieval of the disposition from 1625 the justice court, and updating the driver's records) and fifty 1626 percent (50%) of the deposits into the special fund shall be used 1627 for the purpose of funding wireless communications and related 1628 computer equipment and computer software, subject to the approval 1629 of the Mississippi Department of Information Technology Services. 1630 (3) Approval of a wireless radio communications program must 1631 be given by the applicable governing authorities when: 1632 (a) The program includes the sharing of support 1633 facilities including, but not limited to, towers, shelters and 1634 microwave by participating entities; or S. B. No. 2362 *SS26/R497SG* ~ OFFICIAL ~ 16/SS26/R497SG PAGE 67 1635 (b) The program includes the establishment of a mutual 1636 aid system using

common radio frequency channels between 1637 participating entities; or 1638 (c) The program sets forth a feasible methodology that 1639 utilizes the radio frequency spectrum in an efficient manner. 1640 (4) Participating counties, municipalities, the Pearl River 1641 Valley Water Supply District Patrol and the Mississippi Highway 1642 Safety Patrol must provide notification of facilities available 1643 for interoperability to the Mississippi Department of Information 1644 Technology Services annually. 1645 (5) Counties and municipalities and the Pearl River Valley 1646 Water Supply District Patrol participating in a wireless radio 1647 communications program and the Mississippi Highway Safety Patrol 1648 must comply with competitive bidding requirements prescribed in 1649 Section 31-7-13 and are encouraged to utilize an open 1650 architecture, nonproprietary system.

1651 (6) From and after July 1, 2016, the expenses of this agency 1652 shall be defrayed by appropriation from the State General Fund and 1653 all user charges and fees authorized under this section shall be 1654 deposited into the State General Fund as authorized by law. 1655 (7) From and after July 1, 2016, no state agency shall 1656 charge another state agency a fee, assessment, rent or other 1657 charge for services or resources received by authority of this 1658 section.

This e-mail was sent from Mississippi Association Of Chiefs Of Police (kwinter@mschiefs.org) to delbin@gautier-ms.gov.

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Mississippi Association Of Chiefs Of Police, 181 CR 221 Bruce MS 38915. Phone Number:662-897-6227, Fax Number: (662) 510-0824, Email Address: kwinter@mschiefs.org, Website : www mschiefs.org

CITY OF GAUTIER
Consent Agenda Item #3
Fact Sheet

Council Meeting: November 19, 2019
Title: Authorization to accept monetary donation for The City of Gautier's Lights and Lagniappe on the Bayou From the Gautier Pride Inc.

Introduced by:
Contact Person/Telephone Chassity Bilbo 497-8000

Summary Explanation: Authorization to accept monetary donation from Gautier Pride Inc. for the City of Gautier's Lights and Lagniappe on the Bayou in the amount of $8,000.

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract	☐
Minutes	☐
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	City Manager

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	Martin	☐	George	☐	Jackson	☐	Vaughan	☐	Anderson	☐	Colledge	☐

Second Made by:													
Torjusen	☐	Martin	☐	George	☐	Jackson	☐	Vaughan	☐	Anderson	☐	Colledge	☐

Voted as follows:		Ayes	Nays	Abstained	Absent
Mayor	Torjusen	☐	☐	☐	☐
At Large	Martin	☐	☐	☐	☐
Ward 1	George	☐	☐	☐	☐
Ward 2	Jackson	☐	☐	☐	☐
Ward 3	Vaughan	☐	☐	☐	☐
Ward 4	Anderson	☐	☐	☐	☐
Ward 5	Colledge	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi the following:

ORDER NUMBER 000-2019

WHEREAS, the City of Gautier will host its annual Lights and Lagniappe on the Bayou on December 7th at 3:00pm at Gautier City Hall; and

WHEREAS, this is an excellent opportunity for the City of Gautier to promote and bring favorable recognition to the City of Gautier and will have a great economic impact to the local businesses within the City of Gautier; and

WHEREAS, Gautier Pride Inc. has offered to provide a monetary donation in the amount of $8,000.00 for the purpose of offsetting the costs incurred by the City for the Lights and Lagniappe on the Bayou; and

WHEREAS, the Mayor and Council Members have determined that acceptance of this donation is in the best interest of the City of Gautier.

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi that the monetary donation of $8,000 from Gautier Pride Inc. for the City of Gautier's Lights and Lagniappe on the Bayou held on December 7th is hereby approved and accepted.

IT IS FURTHER ORDERED that the City Manager and City Clerk are authorized to execute any and all documents necessary for this purpose.

Motion was made by **BLANK,** seconded by **BLANK** and the following vote was recorded:

AYES:

NAYS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

BLANK by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: Chassity Bilbo, Recreation Director
Date: 11/12/2019
Subject: Approval to accept a monetary donation for The City of Gautier's Lights and Lagniappe on the Bayou

---

REQUEST:
The Recreation Department requests City Council accept a monetary donation for The City of Gautier's Lights and Lagniappe on the Bayou in the amount of $8,000 from Gautier Pride Inc.

BACKGROUND:
The City of Gautier will host its annual Lights and Lagniappe on the Bayou on December 7th 3:00 p.m. at Gautier City Hall. This year's festival will include a Fireworks Show presented by Pyro Shows titled "Christmas Light the Night". The City has obtained a donor to cover the cost of the show.

Festivities this year includes Elf on the Bayou, appearances by Rudolph and the Grinch, fireworks show, pet adoptions, children's craft area, pictures with Santa, winter wonderland snow party, the Pascagoula– Gautier School District Choir spreading holiday cheer, and the Annual Tree Lighting Ceremony.

DISCUSSION:
Pyro Shows has been providing fireworks entertainment throughout the world for almost half a century. From Stockholm, Sweden, to San Sebastian, Spain, and from Abu Dhabi in the UAE, to Taipei, Taiwan, Pyro Shows has competed in some of the most prestigious international competitions. Pyro Shows won first place in the North American Fireworks Competition in Norfolk, Virginia, and has had the honor to provide the 4th of July fireworks at the Washington Monument in Washington, D.C. for 13 times since 1995.

Pyro Shows currently provides fireworks for the Biloxi Shuckers, Scarlet Pearl Casino, and Mississippi State University.

RECOMMENDATION:
The Recreation Department recommends that City Council accept a monetary donation for The City of Gautier's Lights and Lagniappe on the Bayou in the amount of $8,000 from Gautier Pride Inc.
City Council May:
1. Accept a monetary donation for The City of Gautier's Lights and Lagniappe on the Bayou in the amount of $8,000 from Gautier Pride Inc.

2. Not accept a monetary donation for The City of Gautier's Lights and Lagniappe on the Bayou in the amount of $8,000 from Gautier Pride Inc.

ATTACHMENTS:

CITY OF GAUTIER
Consent Agenda Item #4
Fact Sheet

Council Meeting: November 19, 2019
Title: Approval for road closure and traffic control for the 2019 Lights and Lagniappe on the Bayou Firework Show

Introduced by:
Contact Person/Telephone Chassity Bilbo 497-8000 ext. 317

Summary Explanation: Resolution approving road closure and traffic control for the 2019 Lights and Lagniappe on the Bayou Firework show to be held December 7, 2019.

EXHIBITS FOR REVIEW

Resolution	☒
Ordinance	☐
Contract	☐
Minutes	☐
Plan Maps	☐
Order	☐
Other	☐
Submittal Authorization	City Manager

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	Martin	☐	George	☐	Jackson	☐	Vaughan	☐	Anderson	☐	Colledge	☐

Second Made by:													
Torjusen	☐	Martin	☐	George	☐	Jackson	☐	Vaughan	☐	Anderson	☐	Colledge	☐

Voted as follows:		Ayes	Nays	Abstained	Absent
Mayor	Torjusen	☐	☐	☐	☐
At Large	Martin	☐	☐	☐	☐
Ward 1	George	☐	☐	☐	☐
Ward 2	Jackson	☐	☐	☐	☐
Ward 3	Vaughan	☐	☐	☐	☐
Ward 4	Anderson	☐	☐	☐	☐
Ward 5	Colledge	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

RESOLUTION NUMBER 000-2019

WHEREAS, the Recreation Department has made a request for road closure of William Payne Blvd. on December 7, 2019; and

WHEREAS, the purpose of the road closure is to conduct the 2019 Lights and Lagniappe on the Bayou Firework Show; and

WHEREAS, pursuant to Miss. Code Ann. 21-27-3, municipalities have full jurisdiction over city streets; and

WHEREAS, pursuant to that jurisdiction, cities may close public streets temporarily for public purposes, e.g., parades, festivals, regulation of traffic or other valid purposes under the police power; and

WHEREAS, this authority would include the ability to temporarily close streets to prevent injury to, destruction of, or interference with public or private property, based upon a finding of necessity; and

WHEREAS, the Mayor and Members of Council hereby find that closure of the relevant public street for the time period requested is necessary to prevent injury to, destruction of, or interference with public or private property;

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Gautier, Mississippi that the request for road closure of William Payne Blvd. on December 7th for the Lights and Lagniappe on the Bayou Firework Show is hereby approved.

BE IT, FURTHER RESOLVED that associated traffic and crowd control is hereby approved, subject to the discretion and judgment of the Police Chief;

BE IT, FURTHER RESOLVED that the Council authorizes the City Manager or Clerk to execute all documents necessary for this purpose.

The motion to approve the foregoing resolution was made by **BLANK,** seconded by **BLANK**, and the following vote was recorded:

AYES:

NAYS:

WHEREUPON, the Mayor and Members of the Council of the City of Gautier, Mississippi, declared the motion carried and the Resolution adopted this the 19th day of November, 2019.

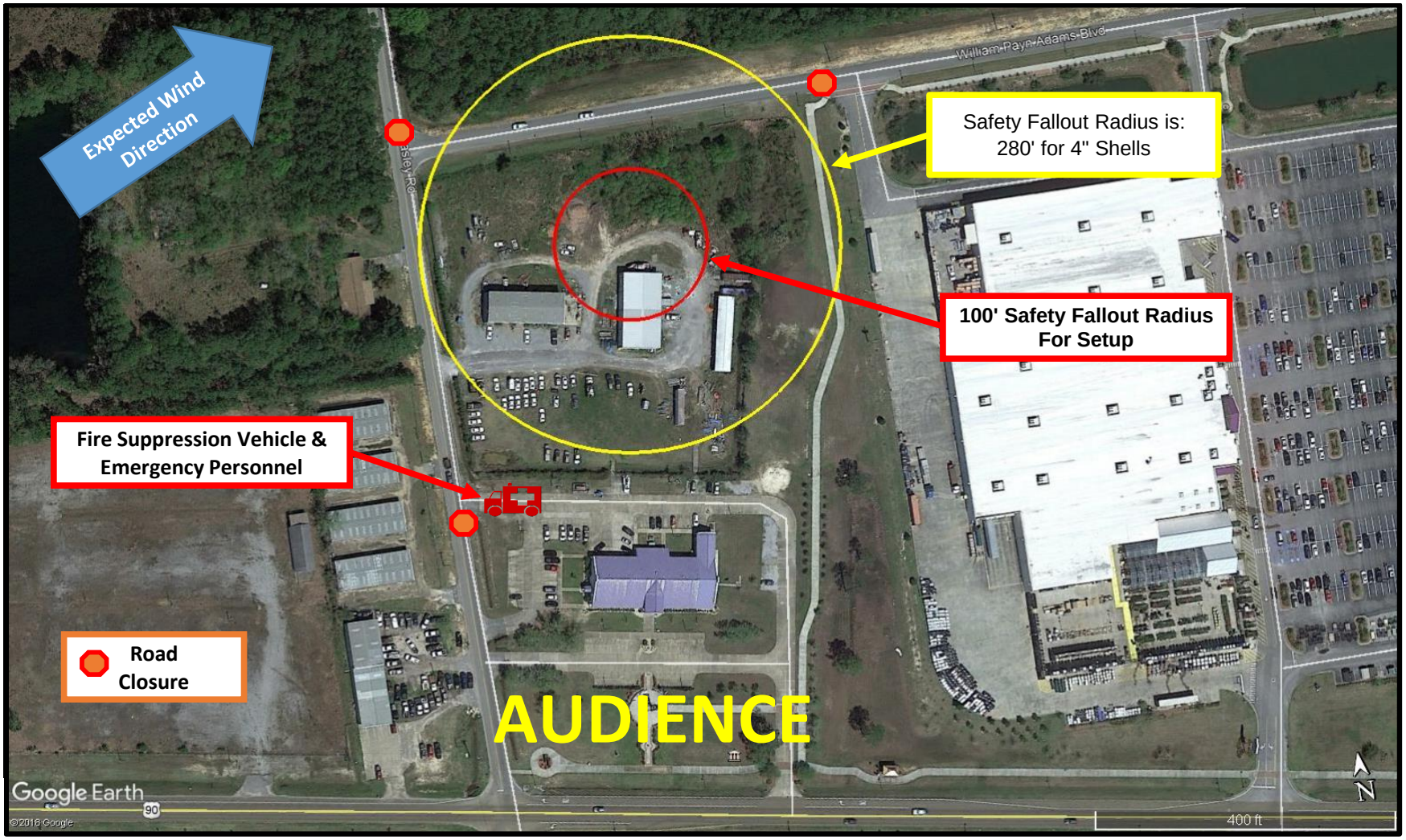
_____

MAYOR

ATTEST:

_____

CITY CLERK



Customer: City of Gautier

Show Date: Saturday, December 7, 2019

Show Address: 3330 Highway 90, Gautier, MS 39553

Show Site Lat / Long:

Show Time: 6:00 PM

Rain Date: NA

Show Name: Christmas Light the Night

Maximum Shell Size: 4"

Safety Fallout Radius: 280'

Storage Required: No

Diagram Created: 10/30/19

Diagram Created By: TLF

CITY OF GAUTIER
Consent Agenda Item #5
Fact Sheet

Council Meeting:	**November 19, 2019**
Title:	**Authorization to waive the deposit ($100) and rental fee ($150) at Gautier Senior Center for Gautier Elementary**
Introduced by:	
Contact Person/Telephone	**Chassity Bilbo 497-8000 ext. 317**

Summary Explanation: Authorization is requested by the Gautier Elementary Faculty and Staff to waive the deposit ($100) and rental fee ($150) at the Gautier Senior Center for Gautier Elementary students Fall Fundraiser limo ride and pizza party

EXHIBITS FOR REVIEW

Resolution	☒
Ordinance	☐
Contract	☐
Minutes	☐
Plan Maps	☐
Order	☐
Other	☐
Submittal Authorization	**City Manager**

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Second Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Voted as follows:		**Ayes**	**Nays**	**Abstained**	**Absent**
Mayor	**Torjusen**	☐	☐	☐	☐
At Large	**Martin**	☐	☐	☐	☐
Ward 1	**George**	☐	☐	☐	☐
Ward 2	**Jackson**	☐	☐	☐	☐
Ward 3	**Vaughan**	☐	☐	☐	☐
Ward 4	**Anderson**	☐	☐	☐	☐
Ward 5	**Colledge**	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

RESOLUTION NUMBER 000-2019

WHEREAS, Gautier Elementary has made a request that the City waive the deposit fee in the amount of $100 and rental fee in the amount of $150 for use of the Gautier Senior Center for the Fall Fundraiser limo ride pizza party; and

WHEREAS, the City has authority to donate funds, equipment, or in-kind services to any school district within the bounds of the city limits; and

WHEREAS, the Mayor and Members of the Council of the City of Gautier, Mississippi, have determined that this event assists the voluntary character development of the school district;

BE IT RESOLVED, by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the request by the Gautier Elementary Faculty and Staff to waive the deposit fee in the amount of $100 and rental fee in the amount of $150 at Gautier Senior Center for the Fall Fundraiser limo ride and pizza party for the Gautier Elementary students is hereby authorized.

BE IT FURTHER RESOLVED, that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion made by **BLANK,** seconded by **BLANK** and the following vote was recorded:

AYES:

NAYS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

BLANK by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

CITY OF GAUTIER
MEMORANDUM

To:	Paula Yancey, City Manager
From:	Chassity Bilbo, Recreation Director
Date:	11/12/2019
Subject:	Approval to waive the deposit in the amount of ($100.00) and rental fee in the amount of ($150.00) for the use of the Gautier Senior Center for Gautier Elementary students Fall fundraiser limo ride pizza party

---

REQUEST:
The Recreation Department has received a request from Gautier Elementary to waive the deposit in the amount of ($100.00) and rental fee in the amount of ($150.00) for the use of the Gautier Senior Center for the Fall fundraiser limo ride pizza party for Gautier Elementary students on November 22, 2019.

BACKGROUND:
Gautier Elementary is in the process of planning the Fall fundraiser limo ride pizza party and are in need of a location to host this event.

DISCUSSION:
To make this celebration a success, Gautier Elementary is in need of a location to host this worthwhile event. Gautier Elementary is in the Pascagoula-Gautier District (PGSD) that has campuses that serve the cities of Gautier and Pascagoula, MS.

RECOMMENDATION:
The Recreation Department recommends that City Council waive the deposit in the amount of ($100.00) and rental fee in the amount of ($150.00) for the Gautier Senior Center for Gautier Elementary Fall fundraiser limo ride pizza party.

The City Council may:
1. Approve to waive the deposit in the amount of ($100.00) and rental fee in the amount of ($150.00) for the Gautier Senior Center for Gautier Elementary Fall fundraiser limo ride pizza party.; or
2. Not approve to waive the deposit in the amount of ($100.00) and rental fee in the amount of ($150.00) Gautier Senior Center for the Gautier Senior Center for Gautier Elementary Fall fundraiser limo ride pizza party.

ATTACHMENTS:

CITY OF GAUTIER
Consent Agenda Item #6
Fact Sheet

Council Meeting:	**November 19, 2019**
Title:	**Approve proposal by Colony Insurance Company for property coverage on the water ionization plant and the eight (8) municipal wells through HUB International**
Introduced by:	
Contact Person/Telephone	**Teresa L Montgomery 497-8000**

Summary Explanation: Approve proposal by Colony Insurance Company for property coverage on the water ionization plant and the eight (8) municipal wells through HUB International

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract	☐
Minutes	☐
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	**City Manager**

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Second Made by:													
Torjusen	☐	**Martin**	☐	**George**	☐	**Jackson**	☐	**Vaughan**	☐	**Anderson**	☐	**Colledge**	☐

Voted as follows:		**Ayes**	**Nays**	**Abstained**	**Absent**
Mayor	**Torjusen**	☐	☐	☐	☐
At Large	**Martin**	☐	☐	☐	☐
Ward 1	**George**	☐	☐	☐	☐
Ward 2	**Jackson**	☐	☐	☐	☐
Ward 3	**Vaughan**	☐	☐	☐	☐
Ward 4	**Anderson**	☐	☐	☐	☐
Ward 5	**Colledge**	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 000-2019

WHEREAS, HUB International currently serves as the City's "Broker of Record" in regards to Property and Casualty Insurance; and

WHEREAS, HUB International has negotiated optional property coverage for utility infrastructure with numerous insurance providers and presented the best rate and coverage options to the City Manager for approval; and

WHEREAS, the City has determined that insuring the water treatment plant and eight (8) municipal wells satisfies the requirements of both the 2018 and 2019 Bond Resolutions and is the most economically feasible option; and

WHEREAS, the total premium including terrorism option to provide coverage for the water treatment plant and eight (8) municipal wells is $45,968.86;

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi that the proposal received from Colony Insurance Company to purchase optional property coverage to insure the water treatment plant and eight (8) municipal wells, as presented, is hereby approved.

IT IS FURTHER ORDERED that the City Manager and City Clerk are authorized to execute any and all documents necessary for this purpose.

Motion made by **BLANK**, seconded by **BLANK** and the following vote was recorded:

AYES:

NAYS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

BLANK by the Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: LaKeisha Hill, Human Resources Generalist
Date: 11/12/2019
Subject: Approval of proposal for optional property coverage on Utility Infrastructure

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REQUEST:
Approve proposal for optional property coverage on Utility Infrastructure.

BACKGROUND:
HUB International currently serves as the city's "Broker of Record" in regards to Property and Casualty Insurance. HUB International has negotiated with providers and presented the best rate and coverage options to the City Manager for approval.

DISCUSSION:
The 2018 Bond and 2019 Bond resolutions require insurance to be carried on portions of the system that are of an insurable nature and then only in the amount carried by similar municipalities. It was found that underground lines and elevated water tanks are generally not insured by county or municipal utilities. The City also determined after much discussion with insurance professionals that it is not economically feasible to insure the lift stations. The high cost of premiums is initially cost prohibitive. Furthermore, high deductibles more or less guarantee no claim will exceed said deductibles. There is no economic benefit to be derived from insuring the water tanks and lift stations. The City has asked for and received competitive proposals to insure both the water ionization plant and the eight (8) municipal wells. Total insurance premiums including terrorism option for FY2020 will be $45,968.86 for both policies.

RECOMMENDATION:
It is recommended the Gautier City Council approve the proposals for property – optional infrastructure insurance for FY 2020 on the water ionization plant and the eight (8) municipal wells and authorize payment of the same.

ATTACHMENTS:
1. HUB Proposal
2. Explanatory Letter

PROPERTY – OPTIONAL INFRASTRUCTURE

Coverage for Wells Only – Colony Insurance Company

Carrier: **Colony**
AM Best Rating: **A Excellent / IX**

•$3,850,000 (Wells Only)
•$10k AOP Ded
•5% (per well) subj to $25k min for Named Storm

•Flood, Earthquake, and Storm Surge are excluded.

•$27,623.31 – Total

•$1,354.57 – Option Total TRIA

Coverage for Water Ionization Plant Only – Colony Insurance Company

Carrier: **Colony**
AM Best Rating: **A Excellent / IX**

•$2,300,000 (Water Ionization Plant Only)
•$10k AOP Ded
•5% Subj to $25k min for Named Storm

Flood, Earthquake, and Storm Surge are excluded

•$16,181.88 – Total

•$809.10 – Option Total TRIA

Total Premium Wells & Water Ionization Plant

$43,805.19 Includes Taxes and Fees

$2,163.67 Option to include Terrorism (TRIA)

HUB International Gulf South

12260 Intraplex Pkwy.
Gulfport, MS 39503
P: (228) 897-6727
T: (228) 897-6700
Greg.Cullom@HubInternational.com
www.hubinternational.com

November 8, 2019

Ms. Paula S. Yancey
City Manager
City of Gautier
3330 Highway 90
Gautier, MS 39553

Re: Bond Resolution – Property All-Risk Insurance Requirement

Dear Ms. Yancey:

I am writing to address the Bond Resolution's all-risk property insurance requirement on the portions of the System that are of an insurable nature and then only in the amount or amounts carried by similar communities.

As I stated in our meeting this past Tuesday, I have been the insurance agent for Harrison County Utility Authority for the past fifteen years. The HCUA is the authority for water and wastewater treatment operations in Harrison County and also for the cities of Biloxi, D'Iberville, Gulfport, Long Beach and Pass Christian. The HCUA does not procure property insurance coverage for their lines, lift stations or water tanks. Lines and lift stations are generally not of an insurable interest as part of water and wastewater treatment operations. We find that it is usually cost prohibitive to insure all segments of the System because of the higher associated premiums to insure all property values, in conjunction with the insurer forced implementation of higher catastrophic wind/hail deductibles for property risk exposure here on the Mississippi Gulf Coast. Also, the inherent qualities of the property values at risk will generally prevent meeting the deductible requirement of the property insurance coverage in the event of a covered cause of loss.

We procured an optional coverage offer with better pricing, terms and conditions through Colony Insurance Company on the insurable infrastructure consisting of the water wells and water ionization plant and have forwarded the property proposal for review, consideration and acceptance.

Please do not hesitate to contact me with any questions, concerns or if you need additional information.

Respectfully,

Greg Cullom, CIC, CRM
Senior Vice President

CITY OF GAUTIER
Consent Agenda Item #7
Fact Sheet

Council Meeting: November 19, 2019
Title: Approval of minutes from Regular Council Meeting held November 5, 2019.

Introduced by:

Contact Person/Telephone Cynthia Russell 497-8000 Ext. 302

Summary Explanation: Approval of minutes from Regular Council Meeting held November 5, 2019.

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract/Agreement	☐
Minutes	☒
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	City Manager

Staff Recommendation:
Approval

Motion Made by:													
Torjusen	☐	Martin	☐	George	☐	Jackson	☐	Vaughan	☐	Anderson	☐	Colledge	☐

Second Made by:													
Torjusen	☐	Martin	☐	George	☐	Jackson	☐	Vaughan	☐	Anderson	☐	Colledge	☐

Voted as follows:		Ayes	Nays	Abstained	Absent
Mayor	Torjusen	☐	☐	☐	☐
At Large	Martin	☐	☐	☐	☐
Ward 1	George	☐	☐	☐	☐
Ward 2	Jackson	☐	☐	☐	☐
Ward 3	Vaughan	☐	☐	☐	☐
Ward 4	Anderson	☐	☐	☐	☐
Ward 5	Colledge	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 000-2019

WHEREAS, Miss. Code Ann. 21-15-33 requires that the minutes be adopted and approved by a majority of the members of the governing body at the next regular meeting or within thirty (30) days of the meeting they represent, whichever occurs first. Upon such approval, the minutes are valid from and after the date of the meeting; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the minutes from Regular Council Meeting held November 5, 2019 are hereby approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **BLANK** seconded by **BLANK** and the following vote was recorded:

AYES:

NAYS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

BLANK by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

Tuesday
November 5, 2019
Gautier, Mississippi

BE IT REMEMBERED THAT A REGULAR MEETING of the Mayor and Members of the Council of the City of Gautier, Mississippi was held November 5, 2019 at 6:30 PM in the City Hall Municipal Building, 3330 Highway 90, Gautier, Mississippi.

Those present were Mayor Phil Torjusen, Council Members Mary Martin, Cameron George, Richard Jackson, Casey Vaughan, and Adam Colledge. Also present were Paula Yancey, City Manager; Cynthia Russell, City Clerk; Josh Danos, City Attorney and other concerned citizens. Absent was Councilman Rusty Anderson.

AGENDA
CITY OF GAUTIER, MISSISSIPPI
CITY HALL COUNCIL CHAMBERS
November 5, 2019 @ 6:30PM

I. Call to Order

1. **Prayer**

2. **Pledge of Allegiance**

II. Agenda Order Approval

III. Announcements

1. **Offices closed Monday, November 11, 2019 in observance of Veterans Day**
2. **Veterans Day Laying of the Wreath Ceremony, November 11th at 11:00AM (Veterans Tribute Tower)**
3. **Offices closed Thursday, November 28th and Friday, November 29th in observance of Thanksgiving Day**
4. **Lights and Lagniappe on the Bayou – Saturday, December 7th at 3:00PM at Gautier City Hall**

IV. Presentation Agenda

I. Business Agenda

1. **Authorization to approve Change Order No. 2 for the Bemis Avenue Sewer Project**

	STAFF PRESENTATION		PUBLIC QUESTIONS/COMMENTS (3 MINUTES PER PERSON)		MOTION COUNCIL DISCUSSION/QUESTIONS		VOTE

2. **Resolution authorizing and directing the issuance of Combined Utility System Revenue Bonds, Series 2019, not to exceed $6,000,000**

	STAFF PRESENTATION		PUBLIC QUESTIONS/COMMENTS (3 MINUTES PER PERSON)		MOTION COUNCIL DISCUSSION/QUESTIONS		VOTE

3. **Approval of Docket of Claims**

	STAFF PRESENTATION		PUBLIC QUESTIONS/COMMENTS (3 MINUTES PER PERSON)		MOTION COUNCIL DISCUSSION/QUESTIONS		VOTE

4. **Authorization to acknowledge bids and award contract to DNA Underground for Hwy. 57 Water/Sewer Relocation Project**

	STAFF PRESENTATION		PUBLIC QUESTIONS/COMMENTS (3 MINUTES PER PERSON)		MOTION COUNCIL DISCUSSION/QUESTIONS		VOTE

5. **Authorization to approve Change Order No. 3 for the Bemis Avenue Sewer Project**

	STAFF PRESENTATION		PUBLIC QUESTIONS/COMMENTS (3 MINUTES PER PERSON)		MOTION COUNCIL DISCUSSION/QUESTIONS		VOTE

II. Consent Agenda (All items approved in one motion)

1. **Authorization to remove office equipment from the Fire Department inventory and declare surplus**

2. **Approval of minutes from Recessed Council Meeting held October 15, 2019 and Recessed Council Meeting held October 21, 2019.**

3. **Receive July, August, and September 2019 Privilege License Report**

4. **Authorization to remove four (4) Police Department vehicles from inventory, insurance and declare them as surplus**

5. **Authorization to remove seventeen (17) Whelen strobe lights, four (4) Setina prisoner transport cages, and three (3) Setina push bumpers from the Police Department Inventory.**

6. **Approval of a Contract Agreement with Pyro Shows**

7. **Approval of a Contract Agreement with Eastern Shore Inflatables**

8. **Authorization to approve a three (3) year contract with Magellan Rx Management to provide pharmacy management services for the City of Gautier Self-Funded Employee Health Plan.**

9. **Authorization to enter into a FY2020 Tidelands Grant Agreement – Mary Walker Bayou Parks Project (FY20-P618-01)**

10. **Authorization to enter into a FY2020 Tidelands Grant Agreement – Shepard State Park Upgrades Project (FY20-P618-02)**

11. **Acceptance of a 2019 Homeland Security Grant through the Mississippi Department of Public Safety, Office of Homeland Security**

12. **Authorization to Advertise for Bid for the Martin Bluff Roadway Improvements Project**

13. **Authorization to Apply for a USDA Rural Development Community Facilities Loan for the Purchase of Police Vehicles**

14. **Approval of a Permit Application for use and occupancy agreement for the construction or adjustment of a utility within City Road Right-of-Way**

15. **Approval of water and sewer adjustments dated November 2019 in the amount of $7,636.07**

16. **Authorization to approve Waggoner Engineering to act as an authorized agent on behalf of the City related to the Water Supply Improvements project**

III. STUDY AGENDA

1. **Discuss Citizen Comments**

2. **Discuss Council Comments**

3. **Discuss City Manager Comments**

4. **Discuss City Clerk Comments**

5. **Discuss City Attorney Comments**

Recess until November 19, 2019 at 6:30 PM
www.gautier-ms.gov

Meeting was called to Order by Mayor Torjusen at 6:30 pm

Councilman Colledge made the motion to approve the agenda order with the following revisions:

1. Add Business Agenda Item 4 – Authorization to acknowledge bids and award contract to DNA Underground for Hwy 57 Water/Sewer Relocation Project
2. Add Business Agenda Item 5 – Authorization to approve Change Order No. 3 for the Bemis Avenue Sewer Project
3. Add Consent Agenda Item 16 – Authorization to approve Waggoner Engineering to act as an authorized agent on behalf of the City related to the Water Supply Improvements project
4. Add Contract to Consent Agenda Item 6 – Authorization to enter into a Contract Agreement with Pyro Shows
5. Amend Consent Agenda Item 12 – The Agenda Page should read- Authorization to Advertise for Bid for the Martin Bluff Roadway Improvements Project

Councilwoman Martin seconded the motion. The vote was carried unanimously.

ANNOUNCEMENTS

1. Offices closed Monday, November 11, 2019 in observance of Veterans Day
2. Veterans Day Laying of the Wreath Ceremony, November 11th at 11:00AM (Veterans Tribute Tower)
3. Offices closed Thursday, November 28th and Friday, November 29th in observance of Thanksgiving Day
4. Lights and Lagniappe on the Bayou – Saturday, December 7th at 3:00PM at Gautier City Hall

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PRESENTATION

None

STATE OF MISSISSIPPI

Office of the Governor

PROCLAMATION

WHEREAS, under the provisions of Miss. Code Ann. Section 3-3-7(1), Veteran's Day is declared a legal holiday in the State of Mississippi; and

WHEREAS, Veteran's Day annually falls on November 11, which is on Monday this year; and

NOW, THEREFORE, I, Phil Bryant, Governor of the State of Mississippi, pursuant to the authority vested in me under the Constitution and laws of the State of Mississippi, do hereby make known that offices of the State of Mississippi shall be closed on Monday November 11, 2019, in further observance of Veteran's Day.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

DONE in the City of Jackson, on the 16th day of September in the year of our Lord, two thousand and nineteen, and of the Independence of the United States of America, the two hundred and forty-fourth.

PHIL BRYANT
GOVERNOR

BY THE GOVERNOR

C. DELBERT HOSEMANN, JR.
SECRETARY OF STATE

Veterans Day

Laying of the Wreath Ceremony

Please join us to honor our veterans and those men and women currently serving in the military.

Hosted by

American Legion Post 1992 Family & The City of Gautier

November 11, 2019 ~ 11:00 A.M.

Veterans Tribute Tower

3330 Hwy 90 Gautier, Mississippi

For more information contact
American Legion Post 1992 Family
228-497-6422

STATE OF MISSISSIPPI

Office of the Governor

PROCLAMATION

WHEREAS, pursuant to Miss. Code Ann. Section 3-3-7, Thanksgiving Day, Christmas Day and New Year's Day are declared legal holidays in the State of Mississippi; and

WHEREAS, during the Thanksgiving holiday and Christmas and New Year's season, many state employees will spend time with their families in Mississippi and in other states;

NOW, THEREFORE, I, Phil Bryant, Governor of the State of Mississippi, pursuant to the authority vested in me under the Constitution of the State of Mississippi and applicable statutes of the State of Mississippi, do hereby authorize the closing of all offices of the State of Mississippi on Thursday, November 28, 2019, in observance of THANKSGIVING DAY; on Wednesday, December 25, 2019, in observance of CHRISTMAS DAY; and on Wednesday, January 1, 2020, in observance of NEW YEAR'S DAY.

IN ADDITION, I hereby authorize the executive officers of all state agencies, in their discretion after considering the interests of the people of the State of Mississippi and the staffing needs of their respective agencies, to close all offices of the State of Mississippi on Friday, November 29, 2019, in further observance of the Thanksgiving holiday and on Tuesday, December 24, 2019, in further observance of Christmas; and to staff their respective agencies as needed during the Thanksgiving holiday and Christmas season.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

DONE in the City of Jackson, on the 8th day of October in the year of our Lord, two thousand and nineteen, and of the Independence of the United States of America, the two hundred and forty-fourth.

PHIL BRYANT
GOVERNOR

BY THE GOVERNOR

Join
the City of Gautier for Lights & Lagniappe on the Bayou

Saturday, December 7th
3:00 p.m.
Gautier City Hall

Tree Lighting. Pictures with Santa. Fun.
Fireworks. Pet Parade.
Winter Wonderland Snow Party
Christmas Festivities

PYRO SHOWS

GAUTIER MISSISSIPPI
Nature's Playground

Gulf Coast Snowmakers

Councilwoman Martin made the motion to approve Change Order No. 2 for the Bemis Avenue Sewer Project (CDBG Project #1134-18-192-PF-01), as presented. Councilman Vaughan seconded the motion. The vote was carried unanimously.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 230-2019

WHEREAS, the City of Gautier has been awarded $590,000 in CDBG Public Facilities funding to support the Bemis Avenue Sewer Project; and

WHEREAS, Change Order No. 2 would cover the cost to change subcontractors on asphalt paving. The original subcontractor was rejected by the City due to a poor work record, and the second lowest bidder for the asphalt work costs an additional $4,680; and

WHEREAS, the change order will increase the contract amount by $4,680. The contract will increase from $644,789 to $649,469.

WHEREAS, Seymour Engineering and Mississippi Development Authority (MDA) have reviewed the change order and recommend approval;

WHEREAS, the Mayor and Members of Council hereby find it is in the best interest of the City of Gautier to approve the change order; and

WHEREAS, the Mayor and Council Members find, consistent with fact, that this change order is necessary and incidental to the completion of the work as originally bid, is commercially reasonable, is not made to circumvent the public purchasing statutes, and that the increase in costs is reasonable;

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the Change Order No.2 for the Bemis Avenue Sewer Project is hereby approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

MAYOR

ATTEST:

CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: April Stennett, Grants Administrator
Date: 10/29/2019
Subject: Bemis Avenue Sewer Project — Change Order No. 2

REQUEST:
The Grants and Projects Department requests that City Council approve Change Order No. 2 for the Bemis Avenue Sewer Project (CDBG Project # 1134-18-192-PF-01).

BACKGROUND:
The City of Gautier has been awarded $590,000 in CDBG Public Facilities funding to support the Bemis Avenue Sewer Project. The Community Development Block Grant Program provides for a maximum grant amount per project of $600,000 for cities and counties with a population greater than 3,500 people.

DISCUSSION:
Change Order No. 2 would cover the cost to change subcontractors on asphalt paving. The original subcontractor was rejected by the City due to a poor work record, and the second lowest bidder for the asphalt work costs and additional $4,680.

The change order will increase the contract amount by $4,680. The contract will increase from $644,789 to $649,469.

Seymour Engineering has reviewed the change order and recommends approval. The Mississippi Development Authority has approved the change order, as well.

RECOMMENDATION:
The Grants and Projects Department recommends that City Council approve Change Order No. 2 for the Bemis Avenue Sewer Project.

The City Council may:
1) Approve Change Order No. 2 as presented; or
2) Not approve Change Order No. 2 as presented.

ATTACHMENTS:
1. MDA Approval and Change Order #2

STATE OF MISSISSIPPI
PHIL BRYANT, GOVERNOR
MISSISSIPPI DEVELOPMENT AUTHORITY
GLENN MCCULLOUGH, JR.
EXECUTIVE DIRECTOR

October 21, 2019

Honorable Phil Torjusen
Mayor
City of Gautier
Post Office Box 670
Gautier, Mississippi 39553

SUBJECT: Change Order #2 – City of Gautier
CDBG Project #1134-18-192-PF-01

Dear Mayor Torjusen:

We have received your request for approval of Change Order Number Two (2) for Sewer Improvements. Based on the information submitted, your requests appear reasonable. Please accept this letter as authorization to execute Change Order Number Two (2).

Please remember all Change Orders must be approved by MDA prior to completing the work. If you have any questions or need assistance, please contact Katrina Smith at (601) 359-9316.

Sincerely,

Kristen Chancellor
Bureau Manager
Community Services Division

KC:ks

cc: Jason Hicks

POST OFFICE BOX 849 • JACKSON, MISSISSIPPI 39205-0849
TELEPHONE (601) 359-3449 • FAX (601) 359-2832 • www.mississippi.org

There came on for consideration the matter of the issuance of combined utility system revenue bonds of the City of Gautier, Mississippi and, after a presentation of the subject matter, Council Member Martin offered and moved the adoption of the following resolution, as presented.

RESOLUTION NUMBER: 035-2019

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF GAUTIER, MISSISSIPPI AUTHORIZING AND DIRECTING THE ISSUANCE OF NOT TO EXCEED $6,000,000 CITY OF GAUTIER, MISSISSIPPI COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2019; PROVIDING THE FORM OF AND AUTHORIZING THE PUBLICATION OF A NOTICE OF SALE OF SAID REVENUE BONDS; APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT IN CONNECTION WITH SAID REVENUE BONDS; AND FOR RELATED PURPOSES.

WHEREAS, the Mayor and City Council of the City of Gautier, Mississippi (the "Governing Body"), acting for and on behalf of the City of Gautier, Mississippi (the "City"), is authorized under the provisions of Sections 21-27-11 *et seq.*, Mississippi Code of 1972, as amended and supplemented from time to time (the "Act"), to issue revenue bonds of the City in such amounts as it may find necessary and proper and for the purposes set forth in the Act, including, but not limited to, the improvement, repair, and extension of the City's combined waterworks, water supply, sewerage, and sewer disposal facilities (the "System"), funding a debt service reserve fund for such revenue bonds and paying the costs of the sale and issuance of such revenue bonds (the "Project"); and

WHEREAS, the Governing Body has previously caused an estimate to be made of the costs of the Project by competent engineers employed by the City from which estimates the Governing Body finds and determines that the contemplated costs thereof will not exceed Ten Million Dollars ($10,000,000); and

WHEREAS, the Project is to be done substantially in accordance with plans and specifications prepared by competent engineers employed by the City and approved by the Governing Body; and

WHEREAS, as a result of a study done by such competent engineers, the Governing Body finds and determines that the estimated life of the Project will be at least twenty-five (25) years; and

WHEREAS, the Project is in accordance with the provisions of the Act; and

WHEREAS, as a result of the findings in the study of such competent engineers, the Project and the costs thereof are economically feasible; and

WHEREAS, by resolution adopted on November 21, 2017 (the "Intent Resolution"), the Governing Body found and determined that it is necessary and proper for the City to finance the Project through the issuance, in one or more series, of revenue bonds of the City pursuant to the Act, in a total aggregate principal amount not to exceed Ten Million Dollars ($10,000,000).; and

WHEREAS, as required by the Act, the Intent Resolution was published in *The Mississippi Press*, a newspaper having a general circulation in the City, and being a qualified newspaper under the provisions of Section 13-3-31, Mississippi Code of 1972, as amended, once a week for at least three (3) consecutive weeks, the last such publication having been made more than ten (10) days prior to January 2, 2018, said resolution having been published on December 6, 13 and 20, 2017; and

WHEREAS, as of the hour of 6:30 p.m. on January 2, 2018, no qualified elector of the City had filed a written protest or objection of any kind or character against the Project or the issuance of revenue bonds of the City; and

WHEREAS, as of the hour of 6:30 p.m. on January 2, 2018, at the usual meeting place of the Governing Body, all persons present or represented by counsel or otherwise were given the opportunity to be heard concerning the Project or the issuance of revenue bonds of the City and no protest or objection of any kind or character against the Project or the issuance of revenue bonds of the City was presented; and

WHEREAS, pursuant to the provisions of the Act, the Governing Body has determined that it is necessary for the health and well-being of the citizens of the City that the City issue revenue bonds of the City to finance the costs of the Project; and

WHEREAS, on June 1, 2018, the City issued its $4,000,000 Combined Utility System Revenue Bonds, Series 2018 to finance a portion of the costs of the Projects; and

WHEREAS, the City is authorized to issue its Combined Utility System Revenue Bonds, Series 2019 (the "Bonds") in an aggregate principal amount not to exceed Six Million Dollars ($6,000,000) for the purpose of providing additional financing for the costs of the Project; and

WHEREAS, the Bonds will be secured by a lien on and payable solely from the Net Revenues (as hereinafter defined) of the System; and

WHEREAS, the Bonds will be issued on a parity with the City's $3,500,000 (original principal amount) Promissory Note (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013 (the "2013 Note"), securing the $3,500,000 (original principal amount) Mississippi Development Bank Special Obligation Bonds, Series 2013 (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, and the City's $4,000,000 (original principal amount) Combined Utility System Revenue Bonds, Series 2018, dated June 1, 2018 (the "Series 2018 Bonds" and together with the 2013 Note, the "Prior Obligations") which are also secured by the Net Revenues of the System; and

WHEREAS, it is necessary, proper and economically feasible that the City issue the Bonds pursuant to the Act for the purposes herein stated and under the procedures hereinafter set forth and as provided by law; and

WHEREAS, the Governing Body is now authorized and empowered by the provisions of the Act to issue the Bonds without an election on the question thereof for the purposes herein stated; and

WHEREAS, the Governing Body is further authorized by the Act to, among other things, sell the Bonds at a public sale (which sale shall be on such terms and in such manner as the Governing shall determine to be in the City's best interest) and to make such other arrangements relating to the Bonds; and

WHEREAS, the issuance of the Bonds does not exceed any statutory or constitutional limitation; and

WHEREAS, there are no other available funds on hand or from regular sources of income for such purposes; and

WHEREAS, there has been prepared and submitted to this meeting the form of a preliminary official statement (the "Preliminary Official Statement") describing the Bonds, the sale of the Bonds, the City, the System and other related matters; and

WHEREAS, it appears that the Preliminary Official Statement, which is now before the Governing Body, is in appropriate form and is an appropriate document for the purposes identified; and

WHEREAS, it is necessary and advisable and in the best interest of the City for the Governing Body, acting for and on behalf of the City, to issue the Bonds as hereinafter provided.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY, ACTING FOR AND ON BEHALF OF THE CITY, AS FOLLOWS:

SECTION 1. Each and all of the facts and findings set forth in the premises clauses of this resolution are hereby found and determined to be true and accurate and are incorporated herein by this reference thereto as though set forth again in words and figures.

SECTION 2. Pursuant to the provisions of the Act, the Governing Body is authorized and empowered to issue the Bonds on behalf of the City without an election on the question of the issuance thereof at any time within a period of two (2) years after January 2, 2018.

SECTION 3. The Governing Body does hereby find and declare that the sale and issuance of not to exceed Six Million Dollars ($6,000,000) aggregate principal amount Combined Utility System Revenue Bonds, Series 2019 of the City to raise money for the purpose of providing financing for the Project is necessary and advisable and conforms to the Act and does hereby authorize and direct the sale and issuance of the Bonds.

SECTION 4. The costs of the Project shall not exceed Six Million Dollars ($6,000,000) and the estimated life of the Project is at least twenty-five (25) years.

SECTION 5. The principal of and interest on the Bonds shall be payable solely from the revenues derived and to be derived from the operation of the System after payment of the reasonable and necessary expense of operating and maintaining the System and the debt service on any State Revolving Fund Loans existing on the date of issuance of the Bonds (the "Net

Revenues"). The Bonds shall not constitute an indebtedness of the City within the meaning of any statutory or charter restriction, limitation, or provision, and the taxing power of the City will not be pledged to the payment of the Bonds, but the same, together with the interest thereon, shall be payable solely from the Net Revenues of the System. The Bonds are being issued on parity with the Prior Obligations.

SECTION 6. The Mayor of the City (the "Mayor") and the Clerk of the City (the "Clerk") are each hereby appointed representatives of the City (the "Representatives") for the purposes of preparing, on behalf of the City, for the sale and issuance of the Bonds in accordance with the terms and provisions of this resolution and the applicable requirements of the Act.

SECTION 7. The Representatives, Butler Snow LLP, Ridgeland, Mississippi ("Bond Counsel"), Bordis & Danos, PLLC, Ocean Springs, Mississippi ("City Counsel"), and Government Consultants, Inc., Madison, Mississippi (the "Municipal Advisor"), are hereby authorized and directed to carry out their respective responsibilities as set forth in this resolution.

SECTION 8. The Representatives are hereby authorized and directed (a) to take such actions and do such things as they shall deem appropriate and lawful to expedite the sale and issuance of the Bonds, (b) to authorize Bond Counsel, City Council and the Municipal Advisor to take such actions and so such things as the Representatives shall deem appropriate and lawful to expedite the sale of the Bonds, and (c) to take such actions and do such things as the Representatives shall deem appropriate to comply with the applicable requirements of the Act.

SECTION 9. The Project shall be accomplished in general accordance with the plans and specifications therefor prepared and recommended by the engineer or engineering firm or firms employed by the City in connection with the Project.

SECTION 10. The Bonds are hereby authorized, ordered and directed to be issued in the principal amount of not to exceed Six Million Dollars ($6,000,000) to raise money for the Project. The principal of and the interest on the Bonds shall be payable in accordance with and as authorized by this resolution, subsequent resolution of the Governing Body and the Act. The Bonds shall be registered as to both principal and interest; shall be dated the date of their delivery; shall be issued in the denomination of $5,000 each, or integral multiples thereof up to the amount of a single maturity; shall be numbered from one upward in the order of issuance; and shall mature annually and become due and payable, with option of prior payment, as provided by subsequent resolution of the Governing Body; provided, however, that the final maturity for the Bonds shall be no later than twenty (20) years from their date of issuance unless earlier redeemed. The Bonds shall bear interest from the date thereof, payable semiannually, at a rate or rates of interest not to exceed thirteen percent (13%) per annum, as allowed by Section 75-17-103, Mississippi Code of 1972, as amended and supplemented.

SECTION 11. The Bonds shall be offered for sale on sealed bids pursuant to the Notice of Bond Sale set forth in Section 12 of this resolution and shall be sold pursuant to a subsequent resolution of the Governing Body. No Bond shall bear more than one (1) rate of interest; each Bond shall bear interest from its date to its stated maturity date at the interest rate specified in the winning bid; all Bonds of the same maturity shall bear the same rate of interest from date to

maturity; and the lowest interest rate specified shall not be less than seventy percent (70%) of the highest interest rate specified. Each interest rate specified in any bid for the Bonds must be a multiple of one-eighth of one percent (1/8 of 1%) or one-tenth of one percent (1/10 of 1%) and a zero rate of interest cannot be named. In no event shall the Bonds be issued at a rate of interest in excess of that allowed under applicable law and the Bonds and bids therefore shall in all other respects comply with the requirements of the Act.

SECTION 12. As required by Section 31-19-25, Mississippi Code of 1972, as amended and supplemented from time to time, and subject to the provisions of Section 16 hereof, the Clerk and Bond Counsel are hereby authorized and directed to give notice of the sale of the Bonds (the "Notice of Bond Sale") by publishing an advertisement at least two (2) times in *The Mississippi Press*, a newspaper having a general circulation in the City, the first publication thereof to be made at least ten (10) days preceding the date fixed for the receipt of bids for the purchase of the Bonds. Such Notice of Bond Sale and the Official Bid Form for the Bonds shall be in substantially the following forms:

NOTICE OF BOND SALE

$6,000,000
CITY OF GAUTIER, MISSISSIPPI
COMBINED UTILITY SYSTEM REVENUE BONDS,
SERIES 2019

NOTICE IS HEREBY GIVEN that the Mayor and City Council (the "Governing Body") of the City of Gautier, Mississippi (the "City") will receive sealed bids in the Office of the City Clerk in the City Hall of the City located at 3330 Highway 90 in the City until the hour of 4:30 p.m. on December 3, 2019, at which time said bids will be publicly opened by the City Clerk and read for the purchase at not less than par plus accrued interest, if any, to the date of delivery of $6,000,000 aggregate principal amount City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2019 (the "Bonds"). Award of the sale of the Bonds will be made by the Governing Body at their meeting to be held at 6:30 p.m. on said date.

THE BONDS: The Bonds will be dated the date of delivery thereof; will be delivered in definitive form as registered Bonds; will be in the denominations of $5,000 or any integral multiple thereof; will be numbered from one upward in the order of issuance; will be payable as to principal at a bank or banks to be designated by the City to serve as paying and transfer agent for the Bonds; and will bear interest, payable semiannually on June 1 and December 1 of each year, commencing December 1, 2020, at the rate or rates of interest specified in the bid submitted by the successful bidder in accordance with this Notice of Bond Sale.

The Bonds will be issued in registered, book-entry-only form and all bidders for the Bonds must be participants of The Depository Trust Company, New York, New York ("DTC"), or affiliated with its participants. The Bond certificates will be deposited with DTC. DTC will be responsible for maintaining a book-entry system for recording the interests of its participants and for the transfer of the interests among its participants. The participants will be responsible for maintaining records regarding the beneficial ownership interests in the Bonds on behalf of the

individual purchasers. Individual purchases may be made in the principal amount of $5,000 or any multiple thereof through book entries made on the books and records of DTC and its participants. Unless the book-entry-only system is discontinued, Bond principal and interest payments will be made by the City to DTC through the Paying and Transfer Agent. DTC will then be responsible for distributing such payments to DTC participants for subsequent remittance to the owners of beneficial interests in the Bonds. Payment of principal and interest on the Bonds to DTC is the responsibility of the City, disbursement of such payments to DTC participants shall be the responsibility of DTC, and disbursements of such payments to the owners of beneficial interests shall be the responsibility of DTC participants and not the responsibility of the City. The City will have no responsibility or obligation to DTC participants or owners of beneficial interests in the Bonds, with respect to the payment by DTC or any DTC participants, of the principal of or interest on the Bonds or the providing of notice to DTC participants or owners of beneficial interests in the Bonds or with respect to: (a) the accuracy of any records maintained by DTC or any DTC participant; or (b) any consent given or other action taken by DTC as owner of the Bonds.

MATURITIES: The Bonds will mature on December 1 in the years and in the principal amounts shown below:

Year	Principal Amount	Year	Principal Amount
2020	$205,000	2030	$300,000
2021	215,000	2031	310,000
2022	220,000	2032	320,000
2023	230,000	2033	335,000
2024	240,000	2034	345,000
2025	250,000	2035	360,000
2026	260,000	2036	375,000
2027	265,000	2037	385,000
2028	280,000	2038	400,000
2029	290,000	2039	415,000

REDEMPTION: The Bonds maturing December 1, 2030 and thereafter will be subject to redemption prior to their respective maturities, at the option of the City, on and after December 1, 2029, either in whole or in part on any date, as selected by the City among maturities, and by lot within each maturity, at the principal amount thereof, together with accrued interest to the date fixed for redemption and without premium.

AUTHORITY AND SECURITY: The Bonds will be issued pursuant to the provisions of Sections 21-27-11 *et seq.*, Mississippi Code of 1972, as amended and supplemented from time to time (the "Act"). The Bonds are to be secured by a lien on and payable from the revenues derived and to be derived from the operation of the combined waterworks, water supply, sewerage, and sewer disposal facilities of the City (the "System") after payment of the reasonable and necessary expense of operating and maintaining the System and the debt service on any State Revolving Fund Loans existing on the date of issuance of the Bonds (the "Net Revenues") and other security pledged for the Bonds. The Bonds are not general obligations of the City and the

full faith, credit and taxing power of the City are not being pledged to the payment of the Bonds or interest thereon. The Bonds are being issued on parity with the City's $3,500,000 Promissory Note (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, securing the $3,500,000 Mississippi Development Bank Special Obligation Bonds, Series 2013 (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, and the City's $4,000,000 Combined Utility System Revenue Bonds, Series 2018, dated June 1, 2018 (together, the "Prior Obligations").

The resolution under which the Bonds are being issued allows under certain circumstances for Additional Bonds to be issued by the City on parity with the Bonds and the Prior Obligations and secured by a parity lien on such Net Revenues and such Additional Bonds would be payable ratably from such Net Revenues along with the Bonds and the Prior Obligations.

PURPOSE: The Bonds are being issued to provide funds for the purpose of financing the improvement, repair, and extension of the System, funding a debt service reserve fund for the Bonds and paying the costs of the sale and issuance of the Bonds.

FORM OF BIDS: Bids should be addressed to the Governing Body and should be plainly marked "Bid for Combined Utility System Revenue Bonds, Series 2019, of the City of Gautier, Mississippi," and should be filed with the City Clerk on or prior to the date and hour hereinabove named. All bids should be submitted on the form prepared by the City, copies of which may be obtained from the City Clerk at City Hall, 3330 Highway 90, Gautier, Mississippi 39553.

INTEREST RATE AND BID RESTRICTIONS: The Bonds shall be sold at par plus accrued interest and shall not bear a greater overall maximum interest rate to maturity than thirteen percent (13%) per annum, nor shall the interest rate for any one maturity exceed thirteen percent (13%) per annum. No Bond shall bear more than one (1) rate of interest; each Bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid; all Bonds of the same maturity shall bear the same rate of interest from date to maturity; and the lowest interest rate specified shall not be less than seventy percent (70%) of the highest interest rate specified. Each interest rate specified in any bid must be a multiple of one-eighth of one percent (1/8 of 1%) or one-tenth of one percent (1/10 of 1%) and a zero rate of interest cannot be named. All bids must comply fully with the terms and provisions of the Act.

GOOD FAITH DEPOSIT: Each bid must be accompanied by a cashier's check, certified check, or exchange, issued or certified by a bank located in the State of Mississippi, payable to the City of Gautier, Mississippi, in the amount of One Hundred Twenty Thousand Dollars ($120,000.00) as a guaranty that the bidder will carry out its contract and purchase the Bonds if its bid is accepted. All checks of unsuccessful bidders will be returned immediately on award of the Bonds. If the successful bidder fails to purchase the Bonds pursuant to its bid and contract, then the amount of such good faith check shall be retained by the City as liquidated damages for such failure. No interest will be allowed on the amount of the good faith deposit.

BIDDER'S OPTION BOND INSURANCE: The City has applied for bidder's option bond insurance. Bidders should directly contact the City's financial advisor, Government Consultants, Inc., 116 Village Boulevard, Madison Mississippi 39110, telephone: (601)982-0005, attention: Mr. Steve Pittman, for further information prior to the sale date.

AWARD OF BONDS: The award, if any, will be made to the bidder complying with the terms of sale and offering to purchase the Bonds at the lowest net interest cost to the City, which shall be determined by computing the aggregate interest on the Bonds over the life of the issue at the rate or rates of interest specified by the bidder, less premium offered, if any. It is requested that each bid be accompanied by a statement of the net interest cost (computed to six decimal places), but such statement will not be considered a part of the bid. All bids shall remain firm for three (3) hours after the time specified for the opening of bids, and an award of the Bonds, or rejection of bids, will be made by the Governing Body within said period of time.

RIGHT OF REJECTION, CANCELLATION: The Governing Body reserves the right to reject any or all bids submitted, as well as to waive any irregularity or informality in any bid. The successful bidder shall have the right, at its option, to cancel its agreement to purchase the Bonds if the Bonds are not tendered for delivery within sixty (60) days from the date of sale thereof, and in such event the Governing Body shall return to said bidder its good faith deposit. The Governing Body shall have the right, at its option, to cancel its agreement to sell the Bonds if within five (5) days after the tender of the Bonds for delivery the successful bidder shall not have accepted delivery of and paid for the Bonds, and in such event the Governing Body shall retain the successful bidder's good faith deposit as liquidated damages as hereinabove provided.

PAYING AGENT, TRANSFER AGENT, AND REGISTRAR: The Governing Body will designate a bank or banks in the State of Mississippi to serve as paying agent, transfer agent and registrar (the "Paying and Transfer Agent") for the Bonds. The Paying and Transfer Agent shall be subject to change by order of the Governing Body under the conditions and in the manner provided in the resolution under which the Bonds are issued. Both principal of and interest on the Bonds will be payable by check or draft mailed to registered owners of the Bonds as of the 15th day of the month preceding the maturity date for such principal or interest payment at the addresses appearing in the registration records of the City maintained by the Paying and Transfer Agent. The Bonds will be transferable only upon the records of the Paying and Transfer Agent, and the payment of principal at maturity shall be conditioned on the proper presentation and surrender of the Bonds to the Paying and Transfer Agent.

PRELIMINARY OFFICIAL STATEMENT: Bidders must acknowledge in their respective bids that they have received and reviewed the City's preliminary official statement related to the issuance of the Bonds (the "Preliminary Official Statement"). The City deems the Preliminary Official Statement to be "final" as described in SEC Rule 15c2-12(b)(1) for the purposes of such Rule. Upon award of the Bonds to the successful bidder, the City will prepare a final official statement in connection with the Bonds (the "Official Statement") in substantially the form of the Preliminary Official Statement, subject to minor amendments and supplementations. A reasonably sufficient number of Official Statements will be made available to the successful bidder at the expense of the City within seven (7) business days of the award of the Bonds to such bidder. Copies of the Preliminary Official Statement may be obtained from

Ms. Cindy Russell, City Clerk, City of Gautier, 3330 Highway 90, Gautier, Mississippi 39553 telephone: (228)497-8000, or the City's financial advisor, Government Consultants, Inc., 116 Village Boulevard, Madison Mississippi 39110, telephone: (601)982-0005, attention: Mr. Steve Pittman.

The successful bidder must file the Official Statement with a nationally recognized municipal securities information repository (a "Repository") at the earliest practicable date after the date of delivery of the Bonds as required by SEC Rule 15c2-12 and must notify the City of the date which is the "end of the underwriting period" within the meaning of such SEC Rule 15c2-12.

In order to assist bidders in complying with SEC Rule 15c2-12(b)(5), the City, pursuant to a resolution of the Governing Body and a continuing Disclosure Certificate, will agree to provide annual reports and notices of certain events. A summary of the City's procedures with regard to continuing disclosure is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement.

SUCCESSFUL BIDDERS: The successful bidder shall assist the City in establishing the issue price of the Bonds and shall execute and deliver to the City at the closing for the Bonds an "issue price" or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices of the Bonds, together with the supporting pricing wires or equivalent communications, in a form reasonably required by the City and Bond Counsel.

The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the Bonds) will apply to the initial sale of the Bonds (the "competitive sale requirements") because:

(a) the City shall disseminate this Notice of Bond Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;

(b) all bidders shall have an equal opportunity to bid;

(c) the City may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and

(d) the City anticipates awarding the sale of the Bonds to the bidder who submits a firm offer to purchase the Bonds at the highest price (or lowest interest cost), as set forth in this Notice of Bond Sale.

Any bid submitted pursuant to this Notice of Bond Sale shall be considered a firm offer for the purchase of the Bonds, as specified in the bid.

In the event that the competitive sale requirements are not satisfied, the City shall so advise the winning bidder. The City shall treat the first price at which 10% of a maturity of the Bonds (the "10% test") is sold to the public as the issue price of that maturity, applied on a maturity-by-maturity basis (and if different interest rates apply within a maturity, to each separate CUSIP number within that maturity). The winning bidder shall advise the City if any

maturity of the Bonds satisfies the 10% test as of the date and time of the award of the Bonds. The City will not require bidders to comply with the "hold-the-offering-price rule" and therefore does not intend to use the initial offering price to the public as of the sale date of any maturity of the Bonds as the issue price of that maturity. Bids will not be subject to cancellation in the event that the competitive sale requirements are not satisfied. Bidders should prepare their bids on the assumption that all of the maturities of the Bonds will be subject to the 10% test in order to establish the issue price of the Bonds.

If the competitive sale requirements are not satisfied, then until the 10% test has been satisfied as to each maturity of the Bonds, the winning bidder agrees to promptly report to the City the prices at which the unsold Bonds of that maturity have been sold to the public. That reporting obligation shall continue, whether or not the closing of the Bonds has occurred, until the 10% test has been satisfied as to the Bonds of that maturity or until all Bonds of that maturity have been sold.

By submitting a bid, each bidder confirms that: (i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder is a party) relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the winning bidder that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public, if and for so long as directed by the winning bidder and as set forth in the related pricing wires, and (ii) any agreement among underwriters relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of the Bonds to the public to require each broker-dealer that is a party to such retail distribution agreement to report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the winning bidder or such underwriter that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public, if and for so long as directed by the winning bidder or such underwriter and as set forth in the related pricing wires.

Sales of any Bonds to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Bond Sale. Further, for purposes of this Notice of Bond Sale:

(a) "public" means any person other than an underwriter or a related party,

(b) "underwriter" means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the public),

(c) a purchaser of any of the Bonds is a "related party" to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(d) "sale date" means the date that the Bonds are awarded by the City to the winning bidder.

DELIVERY: The successful bidder must designate within five (5) days of the date of sale, or at such other later date as may be designated by the Governing Body, the names and addresses of the registered owners of the Bonds and the denominations in which the Bonds of each maturity are to be issued. If the successful bidder fails to submit such information within the required time, one Bond may be issued for each maturity in the full amount maturing on that date registered in the name of the successful bidder. The Bonds will be delivered at a place to be designated by the purchaser and without cost to the purchaser, and payment therefor shall be made in immediately available funds.

CUSIP NUMBER: It is anticipated that CUSIP identification numbers will be secured and printed on the Bonds, but neither the failure to secure or print such numbers on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the successful bidder to accept delivery of and pay for the Bonds in accordance with its agreement to purchase the Bonds. All expenses in relation to the printing of CUSIP numbers on the Bonds shall be paid for by the City; provided, however, that the CUSIP Global Services charge for the assignment of said numbers shall be paid for by the successful bidder.

LEGAL OPINION; CLOSING DOCUMENTS, ETC.: In the opinion of Butler Snow LLP ("Bond Counsel"), assuming compliance by the City with certain tax covenants, under existing statutes, regulations, rulings and court decisions, interest on the Bonds is excludable from gross income for federal income tax purposes. Interest on the Bonds is not a specific preference item for purposes of the federal alternative minimum tax. Bond Counsel will express no other opinion regarding other federal tax consequences resulting from the ownership, receipt or accrual of interest on or disposition of the Bonds. In addition, Bond Counsel is further of the opinion that under and pursuant to the Act, the Bonds and interest thereon are exempt from income taxation in the State of Mississippi.

The Bonds are **NOT** being issued as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended and supplemented from time to time.

The final approving opinion of Bond Counsel, relating to the validity and tax exemption of the Bonds, together with a non-litigation certificate of the City dated the date of delivery of

the Bonds, and a transcript of the proceedings relating to the Bonds will be delivered to the successful bidder without charge

FURTHER INFORMATION: Further information with respect to the Bonds may be obtained from Ms. Cindy Russell, City Clerk, City of Gautier, 3330 Highway 90, Gautier, Mississippi 39553 telephone: (228)497-8000, or the City's financial advisor, Government Consultants, Inc., 116 Village Boulevard, Madison Mississippi 39110, telephone: (601)982-0005, attention: Mr. Steve Pittman.

DATED: November 5, 2019

CITY OF GAUTIER, MISSISSIPPI

By _____
Cindy Russell, City Clerk

OFFICIAL BID FORM

$6,000,000
CITY OF GAUTIER, MISSISSIPPI
COMBINED UTILITY SYSTEM REVENUE BONDS,
SERIES 2019

December 3, 2019

Mayor and City Council
City of Gautier
3330 Highway 90, Gautier, Mississippi 39553
Gautier, Mississippi 38655

Ladies and Gentlemen:

For Six Million Dollars ($6,000,000) aggregate principal amount of Combined Utility System Revenue Bonds, Series 2019 (the "Bonds") of the City of Gautier, Mississippi (the "City"), bearing interest at the rate or rates specified below, we will pay you the aggregate par value thereof of $6,000,000.00 plus a premium of $_____. The Bonds will be dated and bear interest from the date of delivery thereof and will mature on December 1 in the years set forth in the Notice of Bond Sale, dated November 5, 2019, in connection with the Bonds (the "Notice of Bond Sale").

The Bonds maturing on December 1 in the years indicated shall bear interest at the rates set opposite each, as follows:

Year	Principal Amount	Interest Rate/ Coupon	Year	Principal Amount	Interest Rate/ Coupon
2020	$205,000	_____	2030	$300,000	_____
2021	215,000	_____	2031	310,000	_____
2022	220,000	_____	2032	320,000	_____
2023	230,000	_____	2033	335,000	_____
2024	240,000	_____	2034	345,000	_____
2025	250,000	_____	2035	360,000	_____
2026	260,000	_____	2036	375,000	_____
2027	265,000	_____	2037	385,000	_____
2028	280,000	_____	2038	400,000	_____
2029	290,000	_____	2039	415,000	_____

The following is a computation of the net interest cost and average annual net interest rate (calculated in accordance with the provisions of the Notice of Bond Sale), respectively, in the above bid and is submitted for information purposes only and is not a part of this bid unless it is in conformity with the above enumerated interest rates and premium, if any.

Gross Interest Cost ..... $_____

Less Premium..... _____

Net Interest Cost ..... _____

Average Annual Net Interest Rate ..... _____%

This bid is subject to all of the terms and conditions of the Notice of Bond Sale, which Notice of Bond Sale by this reference thereto is hereby made a part hereof.

We hereby acknowledge that we have received and reviewed the Preliminary Official Statement of the City, dated November_, 2019, prepared in connection with the Bonds.

A CERTIFIED OR CASHIER'S CHECK, DRAWN UPON A BANK LOCATED WITHIN THE STATE OF MISSISSIPPI, PAYABLE TO THE ORDER OF THE CITY OF GAUTIER, IN THE AMOUNT OF ONE HUNDRED TWENTY THOUSAND DOLLARS ($120,000.00) accompanies this bid as evidence of good faith and said good faith deposit shall be returned to the undersigned if this bid is not accepted, or if the City should fail to deliver the Bonds to the undersigned in accordance with the terms of the Notice of Bond Sale; otherwise said good faith deposit shall be held by the City and shall be applied as and when the Bonds are delivered and paid for under the terms of this bid, as part payment therefor, or be applied as and for liquidated damages in the event that the undersigned fails to take up and pay for the Bonds in accordance with the terms of the Notice of Bond Sale. Pending the application of the good faith deposit of the successful bidder as aforesaid, such deposit may be invested in direct obligations of, or obligations guaranteed by, the United States of America or in repurchase agreements with banks fully secured by such obligations, and the City shall be entitled to any income from any such investment.

This bid is for immediate acceptance.

Bidder [1] _____

By _____
(Print Name)

_____
(Signature)

Address _____

_____

Telephone Number _____

(**Note:** No addition to or alteration in this bid is to be made, and any erasure may cause a rejection of this bid. Bids must be filed with the Mayor and City Council of the City of Gautier, Mississippi in the Office of the City Clerk in the City Hall located at 3330 Highway 90, Gautier, Mississippi 39553 attention: Ms. Cindy Russell, City Clerk, sealed and worded on the outside, in substance, "Bid for City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2019," before 4:30 o'clock p.m., Mississippi time, on December 3, 2019. No interest will be allowed the bidder on the good faith deposit which accompanies this bid.)

ACCEPTANCE

The above bid accepted by the Mayor and City Council of the City of Gautier, Mississippi, this 3rd day of December, 2019, and receipt of the within mentioned check is hereby acknowledged.

CITY OF GAUTIER, MISSISSIPPI

By_____
Mayor

Attest:

_____
City Clerk

_____
Return of the good faith check is hereby acknowledged.

By _____

Title _____

[1] Please list on an exhibit all members, if any, of your syndicate.

SECTION 13. The Clerk shall obtain from the publisher of the aforesaid newspaper the customary publisher's affidavit proving publication of said Notice of Sale for the time and in the manner required by law, and such proof of publication shall be filed in the Clerk's office and exhibited before the Governing Body on the date fixed for the receipt of bids for the purchase of the Bonds.

SECTION 14. Pursuant to SEC Rule 15c2-12(b)(5), the City covenants and agrees to provide to the original purchaser of the Bonds a continuing disclosure certificate, dated the date of issuance and delivery of the Bonds, setting forth the City's agreement with regard to continuing disclosure (the "Continuing Disclosure Certificate"), and to comply with the covenants set forth therein and carry out all of the provisions of the Continuing Disclosure Certificate. In the event the City fails to comply with the provisions of the Continuing Disclosure Certificate, any registered owner may take such actions as may be necessary and appropriate, including mandamus or specific performance by court order, to cause the City to comply with its obligations set forth in the Continuing Disclosure Certificate and this Section.

SECTION 15. The Preliminary Official Statement in the form attached hereto as Exhibit A, is hereby approved in substantially said form. The Representatives are hereby authorized and directed to make all final determinations necessary to prepare the Preliminary Official Statement for distribution and to distribute and furnish to prospective bidders for the Bonds, and to other interested persons, the Preliminary Official Statement and such other materials and information convenient to the public advertising of the sale and the sale of the Bonds and, to the successful bidder(s) for the Bonds, a final Official Statement relating to the Bonds. The City deems the Preliminary Official Statement to be "final" as described in SEC Rule 15c2 12(b)(1) for the purposes of such Rule.

SECTION 16. The Mayor, upon the advice of Bond Counsel, City Counsel and the Municipal Advisor, is hereby authorized and directed to make all final determinations necessary to prepare (a) the Notice of Bond Sale for publication, including the par amount of the Bonds, the date of sale, the dated date of the Bonds, the payment dates of the Bonds, the maturity schedule relating to the Bonds, the redemption terms of the Bonds and any other terms thereof, and (b) the Official Bid Form; provided, however, that such determinations shall be subject to ratification by the Governing Body. The proper officers and members of the Governing Body are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of this resolution and are further authorized to take any and all further actions and execute and deliver any and all other documents and certificates as may be necessary or desirable in connection with the issuance of the Bonds, the Preliminary Official Statement, a final Official Statement or other documents necessary to conclude the sale and issuance of the Bonds and to document the City's compliance with the Act and the Internal Revenue Code of 1986, as amended and supplemented from time to time.

SECTION 17. All acts and doings of the officers and members of the Governing Body which are in conformity with the purposes and intents of this resolution and in furtherance of the sale and issuance of the Bonds and the execution, delivery and performance of the Official Statement, shall be, and the same hereby are, in all respects approved and confirmed.

SECTION 18. The Bonds shall be sold and issued pursuant to this and subsequent resolutions of the Governing Body.

SECTION 19. In the event that any scrivener's errors shall be discovered in this resolution after the adoption hereof, but prior to the issuance of the Bonds, the Governing Body hereby authorizes and directs that each such scrivener's error shall be corrected in all multiple counterparts of this resolution prior to the issuance of the Bonds.

SECTION 20. All resolutions or parts thereof in conflict herewith, to the extent of such conflict only, are hereby repealed.

SECTION 21. This resolution shall become effective immediately upon the adoption hereof.

SECTION 22. If any one or more of the provisions of this resolution shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any of the other provisions of this resolution, but this resolution shall be construed and enforced as if such illegal or invalid provision or provisions had not been contained herein.

Council Member George seconded the motion to adopt the foregoing resolution, and the question being put to a roll call vote, the result was as follows:

Mayor Phil Torjusen	Voted: Aye
Councilwoman Mary Martin	Voted: Aye
Councilman Cameron B. George	Voted: Aye
Councilman Richard "DJ" Jackson	Voted: Aye
Councilman Casey Vaughan	Voted: Aye
Councilman Charles "Rusty" Anderson	Voted: Absent
Councilman Adam Colledge	Voted: Aye

The motion having received the affirmative vote of a majority of the members of the Governing Body present, being a quorum of said Governing Body, the Mayor declared the motion carried and the resolution adopted this 5th day of November, 2019.

(SEAL)

CITY OF GAUTIER MISSISSIPPI

By_____
Mayor

Attest:

_____
City Clerk

49816382.v1

EXHIBIT A

FORM OF PRELIMINARY OFFICIAL STATEMENT

Change Order

OWNER:
The City of Gautier
3330 US-90
Gautier, MS 39553

CHANGE ORDER NUMBER: 2

DATE: October 15, 2019

CONTRACTOR:
Magnolia Construction Company, L.L.C.
P.O. Box 66096
Baton Rouge, LA 70896

ENGINEER: Seymour Engineering, PLLC

PROJECT TITLE: Bemis Avenue Sewer Improvements

SUMMARY:

This Change Order serves to increase the contract amount.

This is a change order to cover the cost for the asphalt paving. The original subcontractor has been rejected by the owner due to a poor work record, and the second lowest bidder for the asphalt paving cost an additional $4,680.00.

The Change Order will increase the contract amount by $4,680.00.

THE CONTRACT AMOUNT IS AMENDED AS SHOWN ON THE NEXT PAGE:

TOTAL THIS CHANGE ORDER
Not valid until signed by the Owner, Engineer and Contractor.

The original Contract Sum	$	641,514.00
Net change by previously authorized Change Orders	$	3,275.00
The Contract Sum prior to this Change Order was	$	644,789.00
The Contract Sum will now Change (+)	$	4,680.00
The new Contract Sum including this Change Order will be	$	649,469.00

The Contract Time will not be changed
The Date of Substantial Completion as of the date of this Change Order therefore is December 2, 2019

CONTRACTOR	ENGINEER	OWNER
By: [signature]	By: [signature]	By: _____
Date: 10/16/2019	Date: 10/16/2019	Date: _____

This Preliminary Official Statement and certain of the information contained herein is in a form deemed final for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (except for the omission of certain information permitted to be omitted under Rule 15c2-12(b)(1). This Preliminary Official Statement and the information contained herein are subject to revisions, completion or amendment in the final Official Statement. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

PRELIMINARY OFFICIAL STATEMENT
Dated November ___, 2019

ONE (1) NEW ISSUE
BOOK-ENTRY ONLY

In the opinion of Butler Snow LLP, Ridgeland, Mississippi ("Bond Counsel"), under existing laws, regulations, rulings and judicial decisions and assuming the accuracy of certain representations and continuous compliance with certain covenants described herein, interest on the Series 2019 Bonds (as defined herein) is excludable from gross income for federal tax purposes pursuant to Section 103 of the Code (as defined herein), and such interest is not a specific preference item for purposes of the federal alternative minimum tax. Bond Counsel is further of the opinion that under existing laws, regulations, rulings and judicial decisions, interest on the Series 2019 Bonds is exempt from income taxation in the State of Mississippi. See "TAX MATTERS" herein and APPENDIX E - FORM OF OPINION OF BOND COUNSEL attached hereto.

$6,000,000
CITY OF GAUTIER, MISSISSIPPI
COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2019

Dated: Date of Delivery **Due: December 1, as shown on the inside cover**

Interest on the $6,000,000 City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2019 (the "Series 2019 Bonds") will be payable semiannually on June 1 and December 1 of each year, commencing December 1, 2020. The Series 2019 Bonds are being issued by the City of Gautier, Mississippi (the "City") to raise money for the purpose of (a) financing the cost of the improvement, repair, and extension of the City's combined waterworks, water supply, sewerage, and sewer disposal facilities (the "System"), (b) funding a debt service reserve fund for the Series 2019 Bonds, and (c) paying the costs of the sale and issuance of the Series 2019 Bonds. The Mayor and City Council of the City will designate a bank or banks to serve as paying agent, transfer agent and registrar of the Series 2019 Bonds (the "Paying Agent").

The Series 2019 Bonds will be issued as fully registered bonds in denominations of $5,000 or any integral multiple thereof and registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York, which will act as securities depository for the Series 2019 Bonds under a book-entry-only system, as described herein. So long as the Series 2019 Bonds are held in book-entry form, beneficial owners of Series 2019 Bonds will not receive physical delivery of bond certificates.

The principal of, and interest on, the Series 2019 Bonds will be payable by the Paying Agent to DTC, which will in turn remit such principal and interest to its Direct Participants (as defined herein) and Indirect Participants (as defined herein), which will in turn remit such principal, and interest to the beneficial owners of the Series 2019 Bonds. If the date for payment is not a business day, then the payment shall be made on the next succeeding business day with the same force and effect as if made on the payment date. See "DESCRIPTION OF THE SERIES 2019 BONDS – Book-Entry Only System" herein.

The Series 2019 Bonds will be special obligations of the City payable solely from and secured by a lien on the Net Revenues (as defined herein) as collected and received by the City from the operation and ownership of the System. The Series 2019 Bonds are issued on parity with the Utility Bonds (as defined herein) and any Additional Bonds (as defined herein). The Series 2019 Bonds shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory restriction, limitation or provision, and the full faith, credit and taxing power of the City is not pledged to the payment of the Series 2019 Bonds, either as to principal or interest.

The Series 2019 Bonds will be subject to redemption prior to maturity as provided herein. See "DESCRIPTION OF THE SERIES 2019 BONDS – Redemption Provisions."

The Series 2019 Bonds are **NOT** being issued as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended and supplemented from time to time.

The Series 2019 Bonds are offered subject to the final approving opinion of Butler Snow LLP, Ridgeland, Mississippi, Bond Counsel. Certain legal matters will be passed upon for the City by its counsel, Bordis & Danos, PLLC, Ocean Springs, Mississippi. Government Consultants, Inc., Madison, Mississippi, serves as the Municipal Advisor to the City in connection with the sale and issuance of the Series 2019 Bonds. It is expected that delivery of the Series 2019 Bonds in definitive form will be made in New York, New York, on or about _____, 2019.

Dated: December ___, 2019

$6,000,000
CITY OF GAUTIER, MISSISSIPPI
COMBINED UTILITY SYSTEM REVENUE BONDS,
SERIES 2019

MATURITY SCHEDULE

Year (December 1)	Principal Amount	Interest Rate	Yield	CUSIPS[1]
2020	$205,000			
2021	215,000			
2022	220,000			
2023	230,000			
2024	240,000			
2025	250,000			
2026	260,000			
2027	265,000			
2028	280,000			
2029	290,000			
2030	300,000			
2031	310,000			
2032	320,000			
2033	335,000			
2034	345,000			
2035	360,000			
2036	375,000			
2037	385,000			
2038	400,000			
2039	415,000			

[1] CUSIP is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services ("CGS"), which is managed for the American Bankers Association by S&P Capital IQ. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP services. The assignment of a CUSIP number to the Series 2019 Bonds by CGS is not intended to be, and should not be construed as, an endorsement of the Series 2019 Bonds, a recommendation to purchase, sell or hold the Series 2019 Bonds or an opinion as to the legal validity of the Series 2019 Bonds.

CITY OF GAUTIER, MISSISSIPPI

MAYOR AND CITY COUNCIL

Phil Torjusen, *Mayor*
Mary Martin, *Councilwoman*
Cameron B. George, *Councilman*
Richard "DJ" Jackson, *Councilman*
Casey Vaughan, *Councilman*
Charles "Rusty" Anderson, *Councilman*
Adam Colledge, *Councilman*

CITY CLERK

Cindy Russell

GENERAL COUNSEL

Bordis & Danos, PLLC
Ocean Springs, Mississippi

MUNICIPAL ADVISOR

Government Consultants, Inc.
Madison, Mississippi

BOND COUNSEL

Butler Snow LLP
Ridgeland, Mississippi

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OFFICIAL STATEMENT SUMMARY

THE OFFERING

$6,000,000
CITY OF GAUTIER, MISSISSIPPI
COMBINED UTILITY SYSTEM REVENUE BONDS,
SERIES 2019)

The Issuer..... City of Gautier, Mississippi (the "City").

Issue and Date ..... $6,000,000 City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2019, dated the date of delivery thereof (the "Series 2019 Bonds").

Authority..... Sections 21-27-11 *et seq.*, Mississippi Code of 1972, as amended and supplemented from time to time (the "Act").

Use of Proceeds..... The Series 2019 Bonds are being issued to raise money for the purpose of (a) financing the cost of the improvement, repair, and extension of the City's combined waterworks, water supply, sewerage, and sewer disposal facilities (the "System"), (b) funding a debt service reserve fund for the Series 2019 Bonds, and (c) paying the costs of the sale and issuance of the Series 2019 Bonds (see "DESCRIPTION OF THE PROJECT" herein).

Amounts and Maturities..... The Series 2019 Bonds will mature on December 1 in the years and amounts as set forth on the inside cover page hereof.

Interest Payment Dates..... June 1 and December 1 of each year, commencing December 1, 2020.

Redemption Provisions..... The Series 2019 Bonds will be subject to redemption prior to maturity and without premium, at the option of the City, as provided herein (see "DESCRIPTION OF THE SERIES 2019 BONDS - Redemption Provisions" herein).

Security for Payment..... Pursuant to the Act, the Series 2019 Bonds will be special obligations of the City payable solely from and secured by a lien on the Net Revenues (as defined herein) as collected and received by the City from the operation and ownership of the System (as defined herein). The Series 2019 Bonds are issued on parity with the Utility Bonds (as defined herein) and any Additional Bonds (as defined herein). The Series 2019 Bonds shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory restriction, limitation or provision, and the full faith, credit and taxing power of the City is not pledged to the payment of the Series 2019 Bonds, either as to principal or interest (see "DESCRIPTION OF THE SERIES 2019 BONDS - Security" herein).

Tax Matters..... In the opinion of Bond Counsel (as defined herein), assuming continuing compliance with certain covenants by the City, under existing laws, regulations, rulings, and judicial decisions, interest on the Series 2019 Bonds is excludable from gross income for federal tax purposes. Interest on the Series 2019 Bonds is not a specific preference item for purposes of the federal alternative minimum tax. Under existing laws, regulations, rulings and judicial decisions, interest on the Series 2019 Bonds is exempt from all income taxation in the State of Mississippi. For a more complete description of such opinion and certain other tax consequences incident to the ownership of the Series 2019 Bonds, see "TAX MATTERS" herein and APPENDIX E - FORM OF OPINION OF BOND COUNSEL attached hereto.

Disclosure Certificates..... The original purchaser of the Series 2019 Bonds, concurrently with the delivery of the Series 2019 Bonds, shall receive a certificate signed by certain officials of the City regarding the adequacy of disclosure contained in this Official Statement (see "DOCUMENTS ACCOMPANYING DELIVERY OF THE SERIES 2019 BONDS" herein).

The above information is qualified in its entirety by the detailed information and financial information appearing elsewhere in this Official Statement, including the Appendices.

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No dealer, broker, sales representative or other person has been authorized by the City of Gautier, Mississippi (the "City") to give any information or to make any representations other than those contained herein and, if given or made, such other information or representation must not be relied upon as having been authorized by the City. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Series 2019 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City since the date hereof.

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OFFICIAL STATEMENT

$6,000,000
CITY OF GAUTIER, MISSISSIPPI
COMBINED UTILITY SYSTEM REVENUE BONDS,
SERIES 2019)

December ___, 2019

INTRODUCTION

The purpose of this Official Statement, which includes the cover page, the inside cover page and the Appendices hereto, is to set forth certain information concerning the City of Gautier, Mississippi (the "City") and the City's $6,000,000 Combined Utility System Revenue Bonds, Series 2019, dated the date of delivery thereof (the "Series 2019 Bonds").

Reference is made to the Act (as hereinafter defined), the Bond Resolution (as hereinafter defined) and any and all modifications and amendments thereof for a description of the nature and extent of the security of the Series 2019 Bonds. Certain provisions of the Bond Resolution are summarized herein. All summaries of the Bond Resolution do not purport to be complete statements and are subject to the provisions of the Bond Resolution. Capitalized terms used herein, but not defined herein, shall have the meanings ascribed thereto in APPENDIX D hereto.

DESCRIPTION OF THE SERIES 2019 BONDS

General

The Series 2019 Bonds will be issued pursuant to the provisions of Sections 21-27-11 *et seq.*, Mississippi Code of 1972, as amended and supplemented from time to time (the "Act ") and a resolution adopted by the Mayor and City Council of the City (the "Governing Body") on December 3, 2019 (the "Bond Resolution"). The Series 2019 Bonds are being issued (a) to raise money for the purpose of financing the costs of the improvement, repair, and extension of the City's combined waterworks, water supply, sewerage, and sewer disposal facilities (collectively, the "System"), (b) to fund the 2019 Debt Service Reserve Fund (as defined herein), and (c) to pay the costs of the sale and issuance of the Series 2019 Bonds (see "DESCRIPTION OF THE PROJECT" herein).

The Series 2019 Bonds will be dated the date of their delivery and will be issued as fully registered bonds in denominations of Five Thousand Dollars ($5,000) or any integral multiple thereof, bearing interest at the rates per annum set forth on the inside cover page hereof, payable on June 1 and December 1 of each year, commencing on December 1, 2020. The City has designated _____, _____, Mississippi, to serve as paying agent, transfer agent and registrar of the Series 2019 Bonds (the "Paying Agent"). Interest will be payable by check or draft of the Paying Agent made payable to the registered owners of the Series 2019 Bonds named in, and mailed to the addresses appearing on, the registration records of the City kept and maintained by the Paying Agent as of the close of business on the date which shall be the 15th day (whether or not a business day) of the calendar month next preceding each interest payment date.

The principal of and interest on the Series 2019 Bonds shall be payable solely from Revenues and shall be subject to the prior payment of Current Expenses and debt service on the SRF Loans (as hereinafter defined). The Series 2019 Bonds shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory restriction, limitation or provision, and the full faith, credit and taxing power of the City is not pledged to the payment of the Series 2019 Bonds, either as to principal or interest.

The Series 2019 Bonds will initially be held in a book-entry-only system administered by The Depository Trust Company, New York, New York ("DTC"). Principal of and interest on the Series 2019 Bonds held in book-entry form shall be payable as described herein under the heading "DESCRIPTION OF THE SERIES 2019 BONDS - Book-Entry-Only System."

The principal of and interest on, the Series 2019 Bonds will be payable by the Paying Agent to DTC, which will in turn remit such principal and interest to its Direct Participants (as hereinafter defined) and Indirect Participants (as hereinafter defined), which will in turn remit such principal and interest to the beneficial owners of the Series 2019 Bonds. If the date for payment is not a business day, then the payment shall be made on the next succeeding business day with the same force and effect as if made on the payment date. The record date for the payment of interest on the Series 2019 Bonds is the close of business on the date which shall be the 15th day (whether or not a business day) of the calendar month next preceding each interest payment date.

The Series 2019 Bonds will mature on December 1 in the years and in the amounts set forth on the inside cover page hereto.

Security

The Series 2019 Bonds will be special obligations of the City payable solely from and secured by a lien on the Net Revenues (as hereinafter defined) as collected and received by the City from the operation and ownership of the System. The Series 2019 Bonds are being issued on parity with the Utility Bonds (as hereinafter defined) and any Additional Bonds (as defined herein). The Series 2019 Bonds shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory restriction, limitation or provision, and the full faith, credit and taxing power of the City is not pledged to the payment of the Series 2019 Bonds, either as to principal or interest. See "SECURITY FOR THE SERIES 2019 BONDS" herein.

Redemption Provisions

The Series 2019 Bonds maturing December 1, 2030 and thereafter will be subject to redemption prior to their respective maturities, at the option of the City, on and after December 1, 2029, either in whole or in part on any date (as selected by the City among maturities and by lot within each maturity), at the principal amount thereof, together with the interest accrued thereon to the date fixed for redemption and without premium.

Notice of each such redemption shall be mailed, postage prepaid, not less than 30 days prior to the redemption date, to all registered owners of the Series 2019 Bonds to be redeemed at their addresses as they appear on the records of the Paying Agent.

Defeasance of Series 2019 Bonds

Under the Resolution, Series 2019 Bonds for the payment of which sufficient moneys, or, to the extent permitted by the laws of the State of Mississippi (the "State"), (a) direct obligations of, or obligations the payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America ("Government Obligations"), or (b) certificates of deposit or municipal obligations fully secured by Government Obligations, or (c) evidences of ownership of proportionate interests in future interest or principal payments on Government Obligations held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor on the Government Obligations and which Government Obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated, or (d) municipal obligations, the payment of the principal of, interest and redemption premium, if any, on which are irrevocably secured by Government Obligations and which Government Obligations are not subject to redemption prior to the date on which the proceeds attributable to the principal of such obligations are to be used and have been deposited in an escrow account which is irrevocably pledged to the payment of the principal of and interest and redemption premium, if any, on such municipal obligations (all of which collectively, with Government Obligations, "Defeasance Securities"), shall have been deposited with an escrow agent appointed for such purpose, which may be the Paying Agent, all to the extent provided in the Resolution,

shall be deemed to have been paid, shall cease to be entitled to any lien, benefit or security under the Resolution and shall no longer be deemed to be outstanding thereunder, and the registered owners shall have no rights in respect thereof except to receive payment of the principal of and interest on such Series 2019 Bonds from the funds held for that purpose. Defeasance Securities shall be considered sufficient under the Resolution if said investments, with interest, mature and bear interest in such amounts and at such times as will assure sufficient cash to pay currently maturing interest and to pay principal when due on such Series 2019 Bonds.

Ownership

The City, the Paying Agent, and any other person may treat the person in whose name any Series 2019 Bond is registered as the absolute owner of such Series 2019 Bond for the purpose of making payment of the principal thereof and premium, if any, thereon, and for the further purpose of making payment of the interest thereon, and for all other purposes, whether or not such Series 2019 Bond is overdue. Neither the City nor the Paying Agent shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the owner of any Series 2019 Bond in accordance with the Resolution shall be valid and effective and shall discharge the liability of the City and the Paying Agent for such Series 2019 Bond to the extent of the sums paid.

Registration

Series 2019 Bonds Subject to the Book-Entry-Only System. For so long as DTC acts as securities depository for the Series 2019 Bonds, the registration and transfer of ownership interests in Series 2019 Bonds shall be accomplished by book entries made by DTC and the Direct Participants and, where appropriate, the Indirect Participants (as such terms are hereinafter defined), as described herein under the heading "DESCRIPTION OF THE SERIES 2019 BONDS-Book-Entry-Only System."

Series 2019 Bonds Not Subject to Book-Entry-Only System. Should the Series 2019 Bonds no longer be held in book-entry form, each Series 2019 Bond shall be thereafter evidenced by a bond certificate in fully registered form and transferable only upon the registration records of the City maintained by the Paying Agent, by the registered owner thereof or by his attorney, duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Paying Agent, duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any Series 2019 Bond, the City shall issue, in the name of the transferee, a new Series 2019 Bond or Series 2019 Bonds of the same interest rate and maturity of like tenor and effect in any authorized denomination equal to the unpaid principal amount of the surrendered Series 2019 Bond.

Series 2019 Bonds, upon surrender thereof at the office of the Paying Agent with a written instrument of transfer satisfactory to the Paying Agent duly executed by the registered owner or his duly authorized attorney, may be exchanged for a principal amount of Series 2019 Bonds of the same interest rate and maturity and of like tenor and effect in any authorized denomination equal to the unpaid principal amount of the surrendered Series 2019 Bonds. The Paying Agent will not be required to register the transfer of or exchange any Series 2019 Bond after the mailing of notice calling such Series 2019 Bond for redemption has been given as provided in the Resolution, nor during the period of 15 days next preceding the giving of such notice of redemption.

Book-Entry-Only System

The City has determined that it will be beneficial to have the Series 2019 Bonds held by a central depository system and to have transfers of the Series 2019 Bonds affected by book-entry on the books of DTC as such central depository system. Accordingly, Beneficial Ownership interests in the Series 2019 Bonds will be available in book-entry-only form, in the principal amount of $5,000 or integral multiples thereof. Purchasers of Beneficial Ownership interests in the Series 2019 Bonds (the "Beneficial Owners") will not receive certificates representing their interests in the Series 2019 Bonds purchased.

The information provided under this caption has been provided by DTC. No representation is made by the City, the Purchaser (as defined herein) or the Paying Agent as to the accuracy or adequacy of such information, or as to the absence of material adverse changes in such information subsequent to the date hereof.

DTC will act as securities depository for the Series 2019 Bonds. The Series 2019 Bonds will be initially issued as fully-registered Series 2019 Bonds registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by the authorized representative of DTC. One fully-registered Series 2019 Bond certificate for each maturity will be issued for the Series 2019 Bonds in the aggregate principal amount of each maturity and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York, Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non–U.S. equity issues, corporate and municipal debt issues, and money market instrument from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions, in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has S&P's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of Series 2019 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for such Series 2019 Bonds on DTC's records. The ownership interest of each actual purchaser or Beneficial Owner of each Series 2019 Bond is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2019 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2019 Bonds, except in the event that use of the book-entry system for the Series 2019 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2019 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2019 Bonds with DTC and their registration in the name of Cede & Co. or such other nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2019 Bonds. DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2019 Bonds are credited, which may or may not be the Beneficial Owners. The Direct Participants and the Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Series 2019 Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an "Omnibus Proxy" to the Paying Agent as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct

Participants to whose accounts the Series 2019 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal payments and interest payments on the Series 2019 Bonds will be made to Cede & Co. or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the Paying Agent, on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, the Paying Agent, or the City subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, principal payments and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City or the Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2019 Bonds at any time by giving reasonable notice to the City. Under such circumstances, and in the event that a successor depository is not obtained, bond certificates are required to be printed and delivered.

In addition, the City may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, bond certificates will be printed and delivered to DTC.

The information in this section and elsewhere in this Official Statement concerning DTC and DTC's book-entry system has been obtained from sources that the City believes to be reliable, but the City takes no responsibility for the accuracy thereof.

So long as Cede & Co. is the registered holder of the Series 2019 Bonds as nominee of DTC, references herein to the holders or registered owners of the Series 2019 Bonds mean Cede & Co. and not the Beneficial Owners of the Series 2019 Bonds.

THE CITY AND THE PAYING AGENT CANNOT AND DO NOT GIVE ANY ASSURANCES THAT THE DIRECT PARTICIPANTS OR THE INDIRECT PARTICIPANTS WILL DISTRIBUTE TO THE BENEFICIAL OWNERS OF THE SERIES 2019 BONDS (A) PAYMENTS OF PRINCIPAL OF OR INTEREST OR REDEMPTION PREMIUM, IF ANY, ON THE SERIES 2019 BONDS; (B) CERTIFICATES REPRESENTING AN OWNERSHIP INTEREST OR OTHER CONFIRMATION OF BENEFICIAL OWNERSHIP INTERESTS IN THE SERIES 2019 BONDS; OR (C) REDEMPTION OR OTHER NOTICES SENT TO DTC OR CEDE & CO., ITS NOMINEE, AS THE REGISTERED OWNERS OF THE SERIES 2019 BONDS, OR THAT THEY WILL DO SO ON A TIMELY BASIS OR THAT DTC OR DIRECT OR INDIRECT PARTICIPANTS WILL SERVE AND ACT IN THE MANNER DESCRIBED IN THIS OFFICIAL STATEMENT. THE CURRENT "RULES" APPLICABLE TO DTC ARE ON FILE WITH THE SECURITIES AND EXCHANGE COMMISSION AND THE CURRENT "PROCEDURES" OF DTC TO BE FOLLOWED IN DEALING WITH DIRECT OR INDIRECT PARTICIPANTS ARE ON FILE WITH DTC.

NEITHER THE CITY NOR THE PAYING AGENT WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO SUCH DIRECT OR INDIRECT PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO (A) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DIRECT OR INDIRECT PARTICIPANT; (B) THE PAYMENT BY ANY DIRECT OR INDIRECT PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT OF OR INTEREST OR REDEMPTION PREMIUM, IF ANY, ON THE SERIES 2019 BONDS; (C) THE DELIVERY BY ANY DIRECT OR INDIRECT PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THE RESOLUTION TO BE GIVEN TO BONDHOLDERS; (D) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE SERIES 2019 BONDS; OR (E) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS BONDHOLDER.

Debt Service Requirements for the Series 2019 Bonds and the Utility Bonds

The following table sets forth the estimated debt service requirements on the Series 2019 Bonds and the Utility Bonds:

Fiscal Year Ending September 30	2013 Note Total Debt Service	Series 2018 Bonds Total Debt Service	Series 2019 Bonds Principal	Series 2019 Bonds Interest	Total Debt Service
2020			$ 205,000.00		
2021			215,000.00		
2022			220,000.00		
2023			230,000.00		
2024			240,000.00		
2025			250,000.00		
2026			260,000.00		
2027			265,000.00		
2028			280,000.00		
2029			290,000.00		
2030			300,000.00		
2031			310,000.00		
2032			320,000.00		
2033			335,000.00		
2034			345,000.00		
2035			360,000.00		
2036			375,000.00		
2037			385,000.00		
2038			400,000.00		
2039			415,000.00		
TOTAL			$6,000,000.00		

Additional Information

For additional details regarding the description of the Series 2019 Bonds, reference is made to the Notice of Bond Sale for the Series 2019 Bonds included in this Official Statement as APPENDIX A.

APPLICATION OF THE PROCEEDS OF THE SERIES 2019 BONDS

Estimated Sources of Funds

Par Amount of Series 2019 Bonds	$
Plus Net Original Issue Premium	
Total Sources of Funds	

Estimated Uses of Funds

For 2019 Construction Fund[1]	
For 2019 Debt Service Reserve Fund	
For 2019 Depreciation Fund	5,000.00
For 2019 Contingent Fund	5,000.00
Total Uses of Funds	

[1] Includes payments for costs of issuance, which include but are not limited to, legal fees and expenses, municipal advisory fees and expenses and Paying Agent fees and expenses.

DESCRIPTION OF THE PROJECT

The Series 2019 Bonds are being issued (a) to raise money for the purpose of financing the costs of the improvement, repair, and extension of the System, (b) to fund the 2019 Debt Service Reserve Fund, and (c) to pay the costs of the sale and issuance of the Series 2019 Bonds.

SECURITY FOR THE SERIES 2019 BONDS

The Series 2019 Bonds are special obligations of the City payable solely from and are secured by a lien on the Net Revenues as collected and received by the City from the operation and ownership of the System. The Bond Resolution defines Net Revenues to mean the Revenues remaining after payment of Current Expenses and debt service on the SRF Loans.

"Revenues" are defined in the Bond Resolution as all payments, proceeds, fees, charges, rents and all other income derived by or for the account of the City from its ownership and operation of the System, excluding all acreage, front-footage, assessment and similar fees and charges derived by the City in connection with the provision of or payment for capital improvements constituting a part of the System.

"Current Expenses" are defined in the Bond Resolution as the reasonable and necessary current expenses of maintenance, repair and operation of the System and shall include, without limiting the generality of the foregoing, expenses not annually recurring, premiums for insurance, administrative and engineering expenses relating to maintenance, repair and operation, fees and expenses of the Paying Agent, legal expenses, taxes lawfully imposed on the System, reasonable payments to pension or retirement funds for employees of the System and any other expense of the System required or permitted to be paid by the City under the provisions of the Bond Resolution or by law, but shall not include any allowance for depreciation or transfers to the credit of the 2019 Debt Service Fund, the 2019 Debt Service Reserve Fund, the 2019 Depreciation Fund or the 2019 Contingent Fund.

"SRF Loans" are defined in the Bond Resolution as the State Revolving Fund Loans, existing on the date of issuance of the Series 2019 Bonds, from the State to the City under Sections 49-17-1 *et seq.*, Mississippi Code of 1972, as amended and supplemented from time to time, which SRF Loans have a lien on Revenues of the System; however, the debt service for the SRF Loans is collected by the

Mississippi Department of Revenue by diverting sales tax collections prior to remittance of the sales tax to the City and then subsequently reimbursed to the City from the Revenues of the System.

The Series 2019 Bonds shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory restriction, limitation or provisions, and the full faith, credit and taxing power of the City is not pledged to the payment of the Series 2019 Bonds, either as to principal or interest.

The Series 2019 Bonds are being issued on parity with the $9,185,000 (original principal amount) City of Gautier, Mississippi Combined Utility System Revenue Refunding Bonds, Series 2012, dated May 31, 2012, the $3,500,000 (original principal amount) City of Gautier, Mississippi Promissory Note (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, securing the $3,500,000 (original principal amount) Mississippi Development Bank Special Obligation Bonds, Series 2013 (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, and the $4,000,000 (original principal amount) City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2018, dated June 1, 2018 (collectively, the "Utility Bonds") and any Additional Bonds issued pursuant to the Bond Resolution.

THE SYSTEM

General

The Gautier Utility District (the "District") was originally created in 1973 under the provisions of Senate Bill 2251, Local and Private Laws of Mississippi, Regular Session, 1966, as a combined water and sewer utility and a fire protection district. The District's service area was five miles west of the City of Pascagoula, Mississippi, the county seat for Jackson County, Mississippi (the "County"), and 20 miles east of Biloxi, Mississippi.

On July 31, 2002, the City, through an annexation of the property within the District, assumed the operation and maintenance of the District and the System as well as the obligations of the District. The City's service area is bounded on the east by the West Pascagoula River, to the northwest by the Mississippi Sandhill Crane National Wildlife Refuge and to the south by the Gulf of Mexico (the "Service Area"). Opportunity for growth exists to the west, south of the refuge, and to the north. Nearly all of the densely populated areas within the Service Area are being served. The City continues to make a concerted effort to enhance the revenue potential of the System by improved internal control and customer additions.

The Water System

The City currently provides water service to approximately 7,346 customers. The Service Area's water supply source consists of eight ground wells located throughout the Service Area with a combined pumping capacity of 4,410 gallons per minute, the largest well delivering 850 gallons per minute. Treatment of the groundwater is accomplished at the well heads. As the City has developed, it has always utilized water wells for its water source. Currently, the wells supplying the Service Area are all in the Pascagoula Formations (depth 600' to 800'). The Service Area's groundwater sources are of such quality so as to only require chlorination prior to entering the System. Water storage is comprised of four elevated tanks with a capacity of 1,000,000 gallons. The largest storage tank holds 500,000 gallons. At present, the Service Area has approximately 120 miles of water lines in service. The overall condition of the water system is fair to good. The average daily consumption is approximately 1.26 million gallons.

The Sewer System

The City's sewer system is made up of approximately 13.5 miles of interceptors and 103 miles of collection lines. The City's sewer system is connected via two pump stations and a force main to the facilities of the Jackson County Utility Authority (the "Authority"), that, through a contractual arrangement, provides treatment of the collected wastewater. The City is a member of the joint venture of the Authority, which was established by an act of the State Legislature to design and implement a water pollution abatement plan. The Authority is responsible for the operations and maintenance of the wastewater

treatment plants for the cities of Gautier, Moss Point, Ocean Springs and Pascagoula. The Authority enters into subscription agreements with each of the governing bodies and districts to fund its operations.

Currently, the City's average flow of wastewater to the Authority's treatment system is 1,500,000 gallons per day. The Authority has a design capacity of 4,000,000 gallons per day.

The City's monthly payment for wastewater treatment is established prior to the beginning of each fiscal year based on a formula used for projecting the City's expected wastewater flows. Because the amount of wastewater actually treated will differ from the amount estimated to be treated, the monthly fee paid to the Authority is further adjusted by the amount by which the City either overpaid or underpaid in the preceding year.

The City has taken various actions as a precaution to the possibility of volatile wastewater treatment costs in future fiscal years. The City has established a Rate Stabilization Fund. The amounts on hand in the Rate Stabilization Fund may be withdrawn by the City for the purpose of payment of any Current Expenses incurred including the payment of wastewater treatment costs.

Fire Protection

The fire protection facilities of the City include four fire stations. The four fire stations are located within the corporate limits of the City and are owned and operated by the City.

Mandatory Connections

On June 16, 1986, the Board of Supervisors of the County, having previously created the District on July 3, 1973, unanimously adopted a resolution requiring connection to the System of all dwellings and buildings in the Service Area of the District within reasonable proximity to the System. Refusal to connect to the System is a misdemeanor and subjects the offender to a fine not to exceed $100 to be imposed by any court of competent jurisdiction, with each day that the subject dwelling or building is unconnected constituting a separate offense.

Utility Rate Schedule

The following table sets forth the current utility rate schedule for water and sewer customers in the City:

Service	Current Rates
Gallons	3,000
Water	
Over 3,000 Gallons (per 1,000 Gallons) (Residential)	8.25
First 3,000 Gallons (Commercial)	25.50
Over 3,000 Gallons (per 1,000 Gallons) (Commercial)	8.50
Sewer[2]	
First 3,000 Gallons (Residential)	12.30
Over 3,000 Gallons (per 1,000 Gallons) (Residential)	4.10
First 3,000 Gallons (Commercial)	18.75
Over 3,000 Gallons (per 1,000 Gallons) (Commercial)	6.25
Wastewater Treatment	
First 3,000 Gallons (Commercial & Residential)	15.45
Over 3,000 Gallons (per 1,000 Gallons) (Commercial & Residential)	5.15

Garbage	
Monthly Charge	21.00
Minimum Average Bill	73.50

[1] The City bills their citizens/customers separately for wastewater treatment. Fire protection is provided through the City's general fund budget. Information as of September 30, 2018. Corrected information, September 2019.

[2] Sewer only monthly charge is $100.00 for commercial and $42.00 for residential.

In the event that the anticipated increase in revenues attributable to the increased customer base and rate schedule is insufficient to pay the capitalization and operating costs of the System in future years, the City is committed to increasing water and sewer rates to the extent necessary to meet any such shortfalls in revenue that may occur.

Management of the System

The System is a division of the City and is operated and maintained by the City. The System is governed by the Governing Body and is administered by the Department of Public Works. The daily operations of the System are performed by the division head and 35 employees. The City prepares financial statements for the System.

Establishment of Rates

Rates for water and sewer services are established by the Governing Body. The City's current rate schedule was adopted by the Governing Body on October 3, 2017. Newly adopted rates become effective as to each user one month after they have been adopted by the Governing Body provided however, that such newly adopted rates may become effective immediately upon the unanimous approval of the Governing Body based on a finding of good cause and a statement in the adopting ordinance of the reason why it is necessary that the new rate become effective immediately.

Customers Served by the City

The following table shows the number of customers served by the City from 2014 to 2018:

FY Ending September 30	Customers
2018	7,357 (Metered Accounts)
2017	7,346 (Metered Accounts)
2016	7,326 (Metered Accounts)
2015	7,209 (Metered Accounts)
2014	7,300 (Metered Accounts)

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Ten Largest Water System Users

The below table shows the ten largest water system users in the Service Area for the fiscal year ended September 30, 2018:

TEN LARGEST USERS	TOTAL WATER CHARGES
KLP Toulan	$93,607.50
Singing River Apts.	69,510.00
Forest City	69,293.25
River Bend	61,112.50
Sun Suites	62,066.65
Bayou Village	60,457.50
Forest City	51,805.60
Glenmark Apts.	49,555.10
River Chase Village	49,094.20
Indian Point	41,629.00

System Capacity

The current capacity of the City's water system is as follows:

Current Water System	Number of Gallons per day
Capacity	640,150,688
Peak daily load	2,500,000
Average daily usage	1,753,837

The current capacity of the City's sewer system is as follows:

Current Sewer System	Number of Gallons per day
Capacity	6,000,000
Peak Daily load	4,000,000
Average daily usage	2,000,000

Revenues Available for Debt Service

The following schedules, based on projections and information supplied by the City, set forth the actual and projected Net Revenues of the System for the period of Fiscal Years 2010 to 2018. Rates for the System are based on a rate schedule adopted by the Governing Body on October 3, 2017. See "THE SYSTEM – Establishment of Rates" herein. Historical calculations for the combined utility system of the City were based on actual data in the City's annual audits (Fiscal Years 2010–2016), unaudited financial data for Fiscal Year 2017 and budgeted financial data for Fiscal Year 2018. Fiscal Years 2017–2018 projections for the System as combined are based on projected growth of 1% per year in revenues plus rate increases and 3% per year in expenses. Historical debt service coverage for the System for Fiscal Years 2010–2017 ranges from a low of 1.23% in Fiscal Year 2016 to a high of 2.33% in Fiscal Year 2014. The following schedules should be reviewed based on the following assumptions:

1. Water rates adopted by the Governing Body in October 3, 2017 are currently in place for the System;

2. Sewer rates adopted by the Governing Body in October 3, 2017 are currently in place for the System;

3. Water and sewer usage is projected to remain constant;

4. Revenue projections of 1% growth, as applicable, and expense projections of 3% growth; and

5. Debt service based on the following:

Bonds Outstanding[1]	**Outstanding Principal**
$3,500,000 (original principal amount) City of Gautier, Mississippi Promissory Note (Gautier, Mississippi Combined Utility System Revenue Project)	$2,815,000.00
$4,000,000 (original principal amount) City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2018	4,000,000.00
Total Bonds Currently Outstanding	$6,815,000.00
SRF Loans	
State Revolving Fund Loan #3	$ 559,260.41
State Revolving Fund Loan #4	671,081.04
State Revolving Fund Loan #4	864,995.18
State Revolving Fund Construction Loan #5	214,604.44
State Revolving Fund Construction Loan #6	428,757.18
State Revolving Fund Construction Loan #7	1,056,804.17
	$ 3,795,502.42

[1] Does not include the Series 2019 Bonds.

The Utility Bonds and SRF Loans are payable as to principal and interest solely from the revenue derived by the City from the operation of the System.

SRF Loans

The SRF Loans are loans from the State to the City which were made by the City to finance improvements to the System. The total amount of SRF Loans currently outstanding is approximately $3,795,502.42. Although the SRF Loans have a lien on the Revenues of the System, they are paid from monies collected by the Mississippi Department of Revenue by diverting sales tax collections prior to remittance of the sales tax to the City and then subsequently reimbursed to the City from the Revenues of the System.

Schedule of Revenues and Expenditures and Debt Service Coverage

The following schedule summarizes the City's audited operating results for the Fiscal Years ended September 30, 2015 through September 30, 2018, unaudited operating results for the Fiscal Year ended September 30, 2019. The schedule also sets forth projected Revenues for the Fiscal Years ending September 30, 2020 through 2024 (based on the current rate schedule).

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Historical Statement of Revenues, Expenditures and Debt Service Coverage

	Fiscal Year 2015 Audited	Fiscal Year 2016 Audited	Fiscal Year 2017 Audited	Fiscal Year 2018 Audited	Fiscal Year 2019 Unaudited
Total Revenues	$8,104,568	$8,660,502			
Total Expenditures	5,198,467	5,592,909			
Available for Debt Service	2,906,101	3,067,593			
Existing Debt Service	2,370,856	2,476,082			
Available Revenue for New Debt Service	535,245	591,511			
Debt Service Coverage	1.23	1.24			

Projected Statement of Revenues, Expenditures and Debt Service Coverage[1]

	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022	Fiscal Year 2023	Fiscal Year 2024
Total Revenues					
Total Expenditures					
Available for Debt Service					
Existing Debt Service					
Balance					
Debt Ratio					

[1] Assumes a 1% annual increase in total revenues for projected years, and 3% annual increase in total expenses for projected years.

Rate Covenant

The City has covenanted in the Bond Resolution that so long as any of the Series 2019 Bonds remain outstanding and unpaid, it will fix and maintain rates and make and collect charges for the use and service of the System which will at all times provide Net Revenues sufficient: (a) to pay the Current Expenses of the System, and (b) to provide 120% of the amount of the maximum Principal and Interest Requirements and the payments required to be made to the credit of the 2019 Debt Service Reserve Fund for the current Bond Year on account of the Series 2019 Bonds then outstanding.

If the Net Revenues in any Fiscal Year as shown by the City's audit are less than the total amount set forth in the Bond Resolution, then it shall, as promptly as possible, request the Consulting Engineers to make recommendations as to a revision of such rates, fees, and charges or methods of operating the System which will result in producing the required amount in the following Fiscal Year. Upon receipt of such recommendations the City shall, subject to applicable requirements imposed by law, immediately revise such rates, fees, and charges and take such other actions respecting the methods of operation of the System as shall in its discretion be deemed necessary. Failure to implement the recommendation of the Consulting Engineer or if coverage is less than 120% of the maximum Principal and Interest Requirements and the payment required to be made to the credit of the 2019 Debt Service Reserve Fund shall be a breach of the City's covenants under the Bond Resolution.

THE BOND RESOLUTION

A summary of certain provisions of the Bond Resolution is set forth below. This summary does not purport to be comprehensive or definitive. All references herein to the Bond Resolution are qualified

in their entirety by reference to such document, a copy of which may be obtained upon written request to the City.

Funds

The 2012 Bond Resolution provided for the creation and establishment of the Revenue Fund to be utilized in connection with the 2012 Bonds and bonds issued on parity therewith, including the 2013 Note, the Series 2018 Bonds, the Series 2019 Bonds. Although the Series 2012 Bonds have been paid in full, the Revenue Fund will continue to be utilized in connection with the 2013 Note, the Series 2018 Bonds, the Series 2019 Bonds and any Additional Bonds.

The 2013 Loan Agreement provided for the creation and establishment of the 2013 Debt Service Fund to be held by the City for the 2013 Note and bonds issued on parity therewith, including the Series 2018 Bonds and the Series 2019 Bonds.

The 2018 Bond Resolution provided for the creation and establishment of the 2018 Debt Service Fund to be held by the City for the Series 2019 Bonds and bonds issued on parity therewith, including the Series 2019 Bonds.

In addition to the Revenue Fund and the Operation and Maintenance Fund created pursuant to the 2012 Bond Resolution, the Bond Resolution provides for the creation and establishment of the following funds to also be used in connection with the Series 2019 Bonds:

2019 Debt Service Fund
2019 Debt Service Reserve Fund
2019 Construction Fund
2019 Depreciation Fund
2019 Contingent Fund

The moneys in the funds set forth above shall be separate and apart from all other funds of the City and shall be applied in the manner provided in the Bond Resolution and the Prior Bond Resolutions, and, pending such application, except for moneys in the Operation and Maintenance Fund, shall be subject to a lien and charge in favor and for the security of registered owners of the Series 2019 Bonds and the Utility Bonds until paid out or transferred as provided in the Bond Resolution and the Prior Bond Resolutions. Any surplus Revenues remaining after all transfers required by the Bond Resolution and the Prior Bonds Resolutions shall be used solely for purposes pertaining to the System or as otherwise allowed by the Act.

Revenue Fund; Revenues of the System and Application Thereof

All Revenues shall be set aside as collected and shall be deposited into the Revenue Fund. Moneys in said fund shall not be subject to lien or attachment by any creditor of the City and shall be set aside for, allocated to and/or deposited by the Clerk to the extent available in the following order of preference in the following separate and special funds, as created in a prior resolution or resolutions of the Governing Body and provided for in the Bond Resolution, without further direction of or action by the Governing Body or other authority of the City:

(a) On the first business day of each month, commencing in the first month after delivery of the Series 2019 Bonds, there shall be deposited into the Operation and Maintenance Fund an amount which will provide for the payment of the Current Expenses to be paid during such calendar month, and, in the event that the aggregate amounts deposited into such fund pursuant to the Bond Resolution during the preceding months shall have been insufficient to pay all such expenses, an amount sufficient to repay such deficiencies.

(b) On the first business day of each month, commencing in the first month after the delivery of the Series 2019 Bonds, there shall be paid to the City such amount necessary to reimburse the general fund of the City for debt service due on the SRF Loans deducted by the Mississippi Department of Revenue from the sales tax rebate to the City.

(c) On the first business day of each month, commencing in the first month after the delivery of the Series 2019 Bonds, there shall be transferred to the 2019 Debt Service Fund an amount which, together with equal subsequent monthly transfers on the first business day of each successive month, will provide a sum equal to the amount necessary to pay interest and principal due and payable through the date on which the next installment of principal on the Series 2019 Bonds is due. Such transfers are on parity with the amounts to be transferred to the 2013 Debt Service Fund pursuant to the 2013 Loan Agreement and to the 2018 Debt Service Fund pursuant to the 2018 Bond Resolution for the purpose of paying debt service on the 2013 Note and the Series 2018 Bonds, respectively. If in any month, the Net Revenues are insufficient to provide for the total amount of principal and interest to be set aside as required by the Bond Resolution and the Prior Bond Resolutions, such Net Revenues shall be divided on a pro rata basis among each outstanding series of Bonds. Any deficiency in the debt service funds for the Bonds shall be funded in subsequent months.

(d) Provided, that in addition to the moneys required to be transferred to the 2019 Debt Service Fund, the 2019 Debt Service Reserve Fund created under the Bond Resolution shall be maintained in order to meet any deficiency therein in future years. As provided in the Bond Resolution, the 2019 Debt Service Reserve Fund will be fully funded upon delivery of the Series 2019 Bonds. Notwithstanding any other provision of the Bond Resolution, upon the determination of any deficiency in the total amount in the 2019 Debt Service Reserve Fund, the full amount of such deficiency shall be fully funded within one year of such determination. The 2019 Debt Service Reserve Fund shall be used only to pay maturing principal and accruing interest, or both, on the Series 2019 Bonds and only whenever and to the extent that funds otherwise available in the 2019 Debt Service Fund are insufficient for that purpose.

Operation and Maintenance Fund

Amounts held in the Operation and Maintenance Fund will be applied by the City to the payment of the Current Expenses as they accrue in accordance with the annual budget of the City for the System.

2019 Debt Service Fund

Amounts in the 2019 Debt Service Fund will be used to pay the maturing principal and accruing interest coming due on the Series 2019 Bonds. The 2019 Debt Service Fund will be funded periodically from Net Revenues of the System as more particularly described in the Bond Resolution.

2019 Debt Service Reserve Fund

The 2019 Debt Service Reserve Fund is to be maintained in order to meet any deficiency in the 2019 Debt Service Fund. The 2019 Debt Service Reserve Fund shall be funded in the amount of the Debt Service Reserve Requirement and shall thereafter be maintained at the required balance set forth in the Bond Resolution. The 2019 Debt Service Reserve Fund shall be used only to pay maturing principal and accruing interest, or both, and only whenever and to the extent that funds otherwise available in the 2019 Debt Service Fund are insufficient for that purpose. No funds paid into the 2019 Debt Service Reserve Fund shall be used to prepay the principal unless such prepayment is for the entire balance of the principal amount of the Series 2019 Bonds. If the amount in the 2019 Debt Service Reserve Fund as valued on the last day of the Bond Year is more than the Debt Service Fund Requirement, the amount of such excess shall be transferred to the 2019 Debt Service Fund.

2019 Construction Fund

A portion of the proceeds received from the sale and issuance of the Series 2019 Bonds will be transferred to the 2019 Construction Fund. Amounts in the 2019 Construction Fund (including investment earnings) will be applied to pay the Costs of the Project, and/or the costs of issuance of the Series 2019 Bonds. Any balance remaining in the 2019 Construction Fund after the Project has been completed, and all related costs and expenses paid, will be transferred to the 2019 Debt Service Fund and expended in accordance with State and federal law and the Bond Resolution.

2019 Depreciation Fund

In order to fully fund the 2019 Depreciation Fund, the Clerk shall immediately upon delivery of the Series 2019 Bonds transfer to the 2019 Depreciation Fund the sum of $5,000.00 from the proceeds of the Series 2019 Bonds, at which total amount of $5,000.00 said fund shall thereafter be maintained by such future payments as may be necessary for that purpose. Notwithstanding any other provision contained in the Bond Resolution, upon the determination of any deficiency in the total amount in the 2019 Depreciation Fund, the full amount of such deficiency shall be fully funded within one year of such determination. The 2019 Depreciation Fund shall be used for the purpose of paying the cost of replacing such parts of the System as may need replacement in order to keep the System operating in an economical and efficient manner upon written certification by the Consulting Engineers to the Governing Body certifying the necessity for such expenditure and concurring in the necessity for such expenditure from the 2019 Depreciation Fund; provided, however, that in the event the funds otherwise provided for by the Bond Resolution for the payment of the principal of and interest on the Series 2019 Bonds should be insufficient for said purpose, then and in that event, to the extent of any such insufficiency, the amount necessary to pay accruing interest and to provide for the payment of the principal as set forth in the Bond Resolution shall be drawn from the 2019 Depreciation Fund and shall be used, together with funds otherwise available, to pay such accruing interest and to provide for the payment of principal as set forth in the Bond Resolution.

2019 Contingent Fund

In order to fully fund the 2019 Contingent Fund, the Clerk shall immediately upon delivery of the Series 2019 Bonds transfer to the 2019 Contingent Fund the sum of $5,000.00 from the proceeds of the Series 2019 Bonds, at which total amount of $5,000.00 said fund shall thereafter be maintained by such future payments as may be necessary for that purpose. Notwithstanding any other provision contained in the Bond Resolution, upon the determination of any deficiency in the total amount in the 2019 Contingent Fund, the full amount of such deficiency shall be fully funded within one year of such determination. The 2019 Contingent Fund shall be used for the purpose of paying the cost of unforeseen contingencies arising in the operation and maintenance of the System, including the construction of reasonable and proper improvements, betterments and extensions thereto upon written certification by the Consulting Engineers to the Governing Body certifying the necessity for such expenditure and concurring in the necessity for such expenditure from the 2019 Contingent Fund; provided, however, that in the event the funds otherwise provided for by the Bond Resolution for the payment of the principal of and interest on the Series 2019 Bonds should be insufficient for said purpose, then and in that event, to the extent of any such insufficiency, the amount necessary to pay accruing interest and to provide for the payment of the principal as set forth in the Bond Resolution shall be drawn from the 2019 Contingent Fund and shall be used, together with funds otherwise available, to pay such accruing interest and to provide for the payment of principal as set forth in the Bond Resolution.

Investment of Moneys in the Funds

All sums in the funds referred to in the Bond Resolution shall be kept separate and apart from all other funds of the City in a bank or banks having Federal Deposit Insurance Corporation insurance of its accounts and at all times shall be continuously secured as provided by the laws of the State for other funds of the City, or, in the discretion of the Governing Body, may be invested as directed in the Bond Resolution in investments authorized by laws of the State as may now be or hereafter become applicable. Such investments shall mature or be redeemable prior to the time the funds so invested will be needed for expenditure. Any interest or other income received from investments shall accrue to and be accredited to the fund which generated such income or to which such income is attributable. Provided, however, that the Governing Body shall transfer to the 2019 Debt Service Fund any such income in excess of the aggregate amount required by the Bond Resolution to be maintained in any other fund or account.

Insurance

As long as any of the Bonds shall remain outstanding and unpaid, the City shall carry and maintain all-risk insurance upon all the properties forming a part of the System which may be of an insurable nature, such insurance to be of the type and kind and for such amount or amounts as carried and maintained by other municipalities rendering services of a similar character in similar communities. The proceeds of all such insurance shall be used only for the maintenance and restoration of the System, or for the payment of the principal of and the interest on the Bonds.

Additional Bonds

The City has reserved the right to issue one or more series of Additional Bonds on parity with the Series 2019 Bonds and the Utility Bonds ("Additional Bonds") for any lawful purpose, including refunding any previously issued series of bonds or any other bonds or obligations of the City issued in connection with the System or payable from Net Revenues. No Additional Bonds may be issued unless:

(a) the Net Revenues available for payments of principal of and interest on the Series 2019 Bonds for a period of 12 consecutive months during the 18 months preceding the month in which such Additional Bonds are issued must be certified by an accountant to have been at least equal to 120% of the highest annual debt service payments in any succeeding Bond Year with respect to the Series 2019 Bonds, the Utility Bonds and the Additional Bonds proposed to be issued; or in lieu of the foregoing formula, if a new schedule of rates, fees and charges for the services, facilities and commodities of the System shall have been adopted, then the Revenues available for debt service payments (taking into account such new rates) must be certified by an accountant to have been at least equal to 120% of the highest annual debt service payments in any succeeding Bond Year with respect to the Series 2019 Bonds and the Additional Bonds proposed to be issued during the period set forth above;

(b) the pledge of and lien on the Net Revenues and amounts on accredited to the 2019 Debt Service Fund from time to time shall be extended for the benefit of the registered owners of the Additional Bonds; and

(c) the resolution under which the proposed bonds are being issued shall provide for the funding of a debt service reserve fund for such Additional Bonds from the proceeds of such Additional Bonds or as otherwise provided in the Bond Resolution.

The City has also reserved the right to issue bonds, notes or other obligations secured by liens on Net Revenues that are junior and subordinate to the liens on Net Revenues securing the payment of the Series 2019 Bonds, for any lawful purpose.

Events of Default; Remedies

The registered owner of any of the Series 2019 Bonds may, by suit, action, mandamus or other proceedings at law or in equity, enforce and compel performance by the appropriate official or officials of the City of any or all acts and duties to be performed by the City under the provisions of the Act and the Bond Resolution.

Each of the following constitutes an "event of default" under the Bond Resolution:

(a) failure by the City to pay any installment of principal of any Bond at the time required;

(b) failure by the City to pay any installment of interest on any Bond at the time required;

(c) failure by the City to perform or observe any other covenant, agreement or condition on its part contained in the Bond Resolution or the Prior Bond Resolutions or in the Series 2019 Bonds or the Utility Bonds, and the continuance thereof for a period of 60 days after written notice thereof to the City by the registered owners of not less than 10% in principal amount of the then outstanding Bonds; or

(d) filing by the City of a petition seeking a composition of indebtedness under the federal bankruptcy laws, or under any other applicable federal or State law.

If there is any default in the payment of the principal of and interest on the Series 2019 Bonds, any court having jurisdiction in the proper action may, upon petition of the registered owners of a majority in principal amount of the Series 2019 Bonds then outstanding, appoint a receiver to administer and operate the System with power to fix rates and collect charges sufficient to provide for the payment of the Series 2019 Bonds and to pay the expense of operating and maintaining the System in conformity with the provisions of the Act and of the Bond Resolution and the Prior Bond Resolutions.

Utility Bonds

The Series 2019 Bonds are being issued on parity with the Utility Bonds. At Closing, the Purchaser will be provided with a certificate of an accountant stating that the requirements of the Prior Bond Resolutions for the issuance of Additional Bonds have been satisfied.

LITIGATION

The City's General Counsel, Bordis & Danos, PLLC, Ocean Springs, Mississippi, has reviewed the status of all pending litigation against the City. While the City is involved in numerous legal proceedings, there are no pending legal proceedings which might be expected to affect the City's ability to perform its obligations to the registered owners of the Series 2019 Bonds.

MUNICIPAL ADVISOR

The City has retained Government Consultants, Inc., Madison, Mississippi, as Independent Registered Municipal Advisor (the "Municipal Advisor") in connection with the sale and issuance of the Series 2019 Bonds. In such capacity the Municipal Advisor has provided recommendations and other financial guidance to the City with respect to the preparation of documents, the preparation for the sale of the Series 2019 Bonds and of the time of the sale, tax-exempt bond market conditions and other factors related to the sale of the Series 2019 Bonds. Although the Municipal Advisor performed an active role in the drafting of this Official Statement, it has not independently verified any of the information set forth herein.

RATING

No application for a rating for the Series 2019 Bonds from a nationally recognized rating agency has been made.

RECORD OF NO DEFAULT

There is no record of any default on general obligations of the City as to payment of either principal or interest or in any other material respect at any time in at least the past 25 years. No principal or interest on any obligation of the City is currently past due.

NO BOND PROCEEDS FOR CURRENT OPERATING EXPENSES

No proceeds from the sale of securities (except tax anticipation notes issued against revenues of a current fiscal year) have been used by the City for current operating expenses at any time in at least the past ten years.

BANKRUPTCY

The City is a "Municipality" as that term is defined in Title 11 of the United States Code (the "Bankruptcy Code"). Section 109(c) of the Bankruptcy Code prescribes the conditions and circumstances under which a Municipality may file a petition for relief under the Bankruptcy Code. As a debtor, a Municipality may only file for relief pursuant to Chapter 9 of the Bankruptcy Code ("Chapter 9"). Pursuant

to Section 303(a) of the Bankruptcy Code, no creditor or judgment holder of a Municipality may file a Chapter 9 petition on behalf of a Municipality.

Pursuant to Section 109(c)(2) of the Bankruptcy Code, before a municipality may file a petition under Chapter 9 of the Bankruptcy Code, a municipality must be specifically authorized by (a) state law or (b) a governmental officer or organization empowered to authorize such a filing. Accordingly, before a Municipality in the State may file for Chapter 9 protection, it must have specific authority granted to it. Currently, there is no State statute that prescribes, authorizes or otherwise contains authorization for any Municipality to file for Chapter 9 protection, or delegates such authority to a governmental officer or organization. As such, in order for a State Municipality, including the City, to file for Chapter 9 relief, the Municipality must obtain specific authority from the State Legislature.

The State Legislature is comprised of the Senate and the House of Representatives. The Senate is composed of 52 members, and the House of Representatives consists of 122 members. Each member of each chamber is elected to a four-year term. In the State, the Legislature convenes annually on the first Tuesday after the first Monday each January. Regular sessions of the State Legislature last 90 days in all years of an administration except for the first session after a new governor has been elected, when a 125-day session is held.

In order to obtain specific authority from the State Legislature to file for relief pursuant to Chapter 9, a Municipality would have to request both houses during the annual session of the State Legislature to approve a bill authorizing the Municipality to file for relief pursuant to Chapter 9 and such bill would have to be signed into law by the Governor of the State. There is no appeal process or any other proceeding under current State law that the Municipality may pursue if such requested specific authority is not granted by the State Legislature.

PURCHASER

The Series 2019 Bonds have been sold at public sale by the City to _____ (the "Purchaser"), and the Purchaser has agreed, subject to certain conditions, to purchase the Series 2019 Bonds at a price of $_____, plus a premium of $_____.

VALIDATION

The Series 2019 Bonds may, in the discretion of the Governing Body, be validated before the Chancery Court of Jackson County, Mississippi, as provided by Section 31-13-1 *et seq.*, Mississippi Code of 1972, as amended and supplemented from time to time.

INDEPENDENT AUDITORS

The City has not requested and will not obtain a consent letter from its auditor for the inclusion of the audit report in this Official Statement. _____, the City's independent auditor (the "Auditor"), has not been engaged to perform, and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. The Auditor also has not performed any procedures relating to this Official Statement.

APPROVAL OF LEGAL PROCEEDINGS

Certain legal matters incident to the authorization and issuance of the Series 2019 Bonds are subject to the approval of Butler Snow LLP, Ridgeland, Mississippi ("Bond Counsel") whose approving legal opinion will be available at the time of delivery of the Series 2019 Bonds (see APPENDIX E hereto). No representation is made to the registered owners of the Series 2019 Bonds that Bond Counsel has verified the accuracy, completeness or fairness of the statements in this Official Statement and Bond Counsel assumes no responsibility to the registered owners of the Series 2019 Bonds except for the matters set forth in such legal opinion. Certain legal matters will be passed upon for the City by its counsel, Mayo Mallette, PLLC, Gautier, Mississippi.

CONTINUING DISCLOSURE

The City has covenanted for the benefit of the owners of the Series 2019 Bonds to provide certain financial information and operating data relating to the City within twelve months after the end of each Fiscal Year of the City beginning with the Fiscal Year ending on September 30, 2020 (the "Annual Report"), and to provide notices of the occurrence of certain enumerated events, in certain cases if deemed material under federal laws. The Annual Report and notices of material events will be filed by the City with (a) the Municipal Securities Rulemaking Board (the "MSRB") through MSRB's Electronic Municipal Market Assess system at http://emma.msrb.org ("EMMA") in the electronic format then prescribed by the Securities and Exchange Commission (the "SEC") pursuant to SEC Rule15c2-12(b)(5) (the "Rule,"), and with (b) any public or private repository or entity designated by a state as a State Repository, if any, for the purposes of the Rule. This information will be made available free to securities brokers and the general public through EMMA. For the procedures for all filings and notices due to the MSRB, instructions will be provided on the following website for MSRB: http://emma.msrb.org. The specific nature of the information to be contained in the Annual Report or the notices of material events is summarized in APPENDIX F to this Official Statement. These covenants have been made in order to assist the Underwriter in complying with the Rule.

There have been instances in each of the past five years that the City has failed to file certain annual financial information and operating data as required by its prior continuing disclosure undertakings. In addition, there have been instances in which some tables included in its prior continuing disclosure undertakings were not included in every filing on EMMA. The City filed certain information required under its continuing disclosure undertakings, including notice of failure to file certain information required under its continuing disclosure undertakings for its prior debt subject to the Rule. Said failure to file and material event notices can be found on EMMA. The City has adopted policies and procedures to ensure timely filing of its annual financial information (the "Policy"). Pursuant to the Policy, a staff designee of the City will appoint or engage a dissemination agent to assist in carrying out its obligations under the Policy and/or the staff designee will be responsible for submitting the information required under the Policy. In accordance with the Policy, the City has hired a dissemination agent to file the City's required annual report. The City has also adjusted the timing of its reporting deadline on future issues to 12 months to ensure timely filing.

TAX MATTERS

General

In the opinion of Butler Snow LLP, Ridgeland, Mississippi ("Bond Counsel"), under existing laws, regulations, rulings and judicial decisions, interest on the Series 2019 Bonds (including any original issue discount properly allocable to the owner of a Series 2019 Bond) is excludable from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. The opinion described above assumes the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Internal Revenue Code of 1986, as amended and supplemented (the "Code") that must be met subsequent to the issuance of the Series 2019 Bonds. Failure to comply with such requirements could cause interest on the Series 2019 Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Series 2019 Bonds. The City has covenanted in the Bond Resolution and certain certificates to comply with such requirements. Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the Series 2019 Bonds.

In the opinion of Bond Counsel, interest on the Series 2019 Bonds is exempt from all income taxation in the State of Mississippi under existing laws, regulations, rulings and judicial decisions. The opinion addresses only the exemption of interest on the Series 2019 Bonds under the income tax laws of the State of Mississippi and does not address the tax treatment of the Series 2019 Bonds in any other state or jurisdiction.

Although Bond Counsel has rendered an opinion that interest on the Series 2019 Bonds is excludable from federal gross income and that the Series 2019 Bonds are exempt from all State of

Mississippi income tax, the accrual or receipt of interest on the Series 2019 Bonds may otherwise affect a bondholder's federal income tax, Mississippi or other state tax liability. The nature and extent of these other tax consequences will depend upon the bondholder's particular tax status and a bondholder's other items of income or deduction. Taxpayers who may be affected by such other tax consequences include, without limitation, financial institutions, certain insurance companies, S corporations, certain foreign corporations, individual recipients of Social Security or railroad retirement benefits and taxpayers who may be deemed to have incurred (or continued) indebtedness to purchase or carry the Series 2019 Bonds. Bond Counsel expresses no opinion regarding any other such federal or state tax consequences. Prospective purchasers of the Series 2019 Bonds should consult their own tax advisors with regard to the other tax consequences of owning the Series 2019 Bonds.

The Series 2019 Bonds are **NOT** being issued as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended and supplemented from time to time.

Original Issue Premium Bonds

The Series 2019 Bonds that have an original yield below their respective interest rates, as shown on the inside cover of this Official Statement (collectively, the "Premium Bonds"), are being sold at a premium. An amount equal to the excess of the issue price of a Premium Bond over its stated redemption price at maturity constitutes premium on such Premium Bond. A purchaser of a Premium Bond must amortize any premium over such Premium Bond's term using constant yield principles, based on the purchaser's yield to maturity (or, in the case of Premium Bonds callable prior to their maturity, generally by amortizing the premium to the call date, based on the purchaser's yield to the call date and giving effect to any call premium). As premium is amortized, the amount of the amortization offsets a corresponding amount of interest for the period, and the purchaser's basis in such Premium Bond is reduced by a corresponding amount resulting in an increase in the gain (or decrease in the loss) to be recognized for federal income tax purposes upon a sale or disposition of such Premium Bond prior to its maturity. Even though the purchaser's basis may be reduced, no federal income tax deduction is allowed. Purchasers of the Premium Bonds should consult their tax advisors with respect to the determination and treatment of premium for federal income tax purposes and with respect to the state and local tax consequences of owning a Premium Bond.

Original Issue Discount Bonds

The Series 2019 Bonds that have an original yield above their respective interest rates, as shown on the inside cover of this Official Statement (collectively, the "Discount Bonds"), are being sold at an original issue discount. The difference between the initial public offering prices of such Discount Bonds and their stated amounts to be paid at maturity constitutes original issue discount treated in the same manner for federal income tax purposes as interest, as described above.

The amount of original issue discount that is treated as having accrued with respect to a Discount Bond or is otherwise required to be recognized in gross income is added to the cost basis of the owner of the bond in determining, for federal income tax purposes, gain or loss upon disposition of such Discount Bond (including its sale, redemption or payment at maturity). Amounts received on disposition of such Discount Bond that are attributable to accrued or otherwise recognized original issue discount will be treated as federally tax-exempt interest, rather than as taxable gain, for federal income tax purposes.

Original issue discount is treated as compounding semiannually, at a rate determined by reference to the yield to maturity of each individual Discount Bond, on days that are determined by reference to the maturity date of such Discount Bond. The amount treated as original issue discount on such Discount Bond for a particular semiannual accrual period is equal to (a) the product of (i) the yield to maturity for such Discount Bond (determined by compounding at the close of each accrual period) and (ii) the amount that would have been the tax basis of such Discount Bond at the beginning of the particular accrual period if held by the original purchaser, less (b) the amount of any interest payable for such Discount Bond during the accrual period. The tax basis for purposes of the preceding sentence is determined by adding to the initial public offering price on such Discount Bond the sum of the amounts

that have been treated as original issue discount for such purposes during all prior periods. If such Discount Bond is sold between semiannual compounding dates, original issue discount that would have been accrued for that semiannual compounding period for federal income tax purposes is to be apportioned in equal amounts among the days in such compounding period.

Owners of Discount Bonds should consult their tax advisors with respect to the determination and treatment of original issue discount accrued as of any date, with respect to when such original issue discount must be recognized as an item of gross income and with respect to the state and local tax consequences of owning a Discount Bond. Subsequent purchasers of Discount Bonds that purchase such Discount Bonds for a price that is higher or lower than the "adjusted issue price" of the Discount Bonds at the time of purchase should consult their tax advisors as to the effect on the accrual of original issue discount.

Backup Withholding

As a result of the enactment of the Tax Increase Prevention and Reconciliation Act of 2005, interest on federally tax-exempt obligations such as the Series 2019 Bonds is subject to information reporting in a manner similar to interest paid on taxable obligations. Backup withholding may be imposed on payments to any owner of the Series 2019 Bonds that fail to provide certain required information including an accurate taxpayer identification number to any person required to collect such information pursuant to Section 6049 of the Code. The reporting requirement does not in and of itself affect or alter the excludability of interest on the Series 2019 Bonds from gross income for federal income tax purposes or any other federal tax consequence of purchasing, holding or selling federally tax-exempt obligations.

Changes in Federal and State Tax Law

From time to time, there are legislative proposals in the Congress and in the states that, if enacted, could alter or amend the federal and state tax matters referred to under this heading "TAX MATTERS" or adversely affect the market value of the Series 2019 Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether if enacted it would apply to bonds issued prior to enactment. In addition, regulatory actions are from time to time announced or proposed and litigation is threatened or commenced which, if implemented or concluded in a particular manner, could adversely affect the market value of the Series 2019 Bonds. It cannot be predicted whether any such regulatory action will be implemented, how any particular litigation or judicial action will be resolved, or whether the Series 2019 Bonds or the market value thereof would be impacted thereby. Purchasers of the Series 2019 Bonds should consult their tax advisors regarding any pending or proposed legislation, regulatory initiatives or litigation. The opinions expressed by Bond Counsel are based on existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the Series 2019 Bonds, and Bond Counsel has expressed no opinion as of any date subsequent thereto or with respect to any pending legislation, regulatory initiatives or litigation.

PROSPECTIVE PURCHASERS OF THE SERIES 2019 BONDS ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS PRIOR TO ANY PURCHASE OF THE SERIES 2019 BONDS AS TO THE IMPACT OF THE CODE UPON THEIR ACQUISITION, HOLDING OR DISPOSITION OF THE SERIES 2019 BONDS.

DOCUMENTS ACCOMPANYING DELIVERY OF THE SERIES 2019 BONDS

Absence of Litigation

Upon delivery of the Series 2019 Bonds, the City shall furnish the certificate of the Mayor of the City, dated the date of delivery of the Series 2019 Bonds, to the effect that there is no pending litigation now of record in any court nor is there any litigation, to his knowledge, threatened or contemplated, affecting in any manner either directly or indirectly:

1. the Series 2019 Bonds;

2. the issuance, delivery, and validity of said Series 2019 Bonds;

3. the provision of funds to pay the interest thereon and principal thereof when such payments shall become due;

4. the proceedings and authority under which provision of funds is made;

5. the members of the Governing Body or their right to their respective offices at the time of the issuance, execution and delivery of said Series 2019 Bonds;

6. the tax-exempt status of the Series 2019 Bonds; or

7. the existence or powers of the City or the Governing Body.

Legal Matters

In addition to the approving legal opinion relating to the Series 2019 Bonds, the Purchaser will receive the opinion, dated the date of delivery of the Series 2019 Bonds, of Bond Counsel to the effect that, although it is not passing upon and does not assume any responsibility for the accuracy, completeness or fairness of the statements in this Official Statement, makes no representation that it has independently verified such statements and has necessarily assumed the fairness, accuracy and completeness thereof, on the basis of its participation in the preparation of portions of this Official Statement and in connection with the rendering of its opinion as to the validity of the Series 2019 Bonds, nothing has come to its attention that would give it reason to believe that the Official Statement (except for the financial and statistical data included herein, as to which no view need be expressed) contains any untrue statement of a material fact or omits to state any material fact that is required to be stated herein or necessary to make the statements contained herein, in light of circumstances under which they are made, not misleading.

Certificates

The Purchaser shall also receive a certificate, dated the date of the delivery of the Series 2019 Bonds, signed by the Mayor of the City and the Clerk of the City, certifying that, on the date of the execution of the certificate, they are duly chosen, qualified, and acting officers of the City occupying the offices indicated opposite their names. Further, the Mayor of the City and the Clerk of the City will certify that they have executed the Series 2019 Bonds by causing their signatures to be affixed to each Series 2019 Bond, and they do thereby recognize the said facsimile signatures as their true and lawful signatures, and they will further certify that the seal impressed upon each of said Series 2019 Bonds and on such certificate is the official seal of the City.

The Purchaser shall also receive a certificate, dated the date of delivery of the Series 2019 Bonds, signed by the Mayor of the City and the Clerk of the City certifying that this Official Statement, with respect to the Series 2019 Bonds, as of the date of this Official Statement, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements herein, in light of the circumstances under which they are made, not misleading. In providing such certificate, the Mayor of the City and the Clerk of the City will state that they have not undertaken to independently verify information obtained or derived from the various State or federal government publications or other sources as presented herein.

MISCELLANEOUS

Any statements in this Official Statement involving matters of opinion or estimates, whether or not expressly so stated, are intended as such and not as representations of fact. No representation is made that any of the statements will be realized.

The references, excerpts and summaries of all documents referred to herein do not purport to be complete statements of the provisions of such documents, and reference is directed to all such

documents for full and complete statements of all matters of fact relating to the Series 2019 Bonds, the security for the payment of the Series 2019 Bonds and the rights and obligations of the registered owners thereof.

The information contained in this Official Statement has been taken from sources considered reliable but is not guaranteed. To the best of the City's knowledge, information in this Official Statement does not include any untrue statement of material fact nor does the information omit the statement of any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

References herein to the Act and the Resolution are only summaries, excerpts or brief outlines of certain provisions thereof and do not purport to summarize or describe all provisions thereof. Additional information may be obtained upon request from the office of the Clerk of the City, City Hall, 3330 Highway 90, Gautier, Mississippi 39553, attention: Cindy Russell; telephone: (228) 497-8000 and Government Consultants, Inc., 116 Village Boulevard, Madison, Mississippi 39110, telephone: (601) 982-0005.

The execution of this Official Statement has been duly authorized by the Mayor and City Council of the City of Gautier, Mississippi.

CITY OF GAUTIER, MISSISSIPPI

By _____
Phil Torjusen, Mayor

APPENDIX A

NOTICE OF BOND SALE

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NOTICE OF BOND SALE

$6,000,000
CITY OF GAUTIER, MISSISSIPPI
COMBINED UTILITY SYSTEM REVENUE BONDS,
SERIES 2019

NOTICE IS HEREBY GIVEN that the Mayor and City Council (the "Governing Body") of the City of Gautier, Mississippi (the "City") will receive sealed bids in the Office of the City Clerk in the City Hall of the City located at 3330 Highway 90 in the City until the hour of 4:30 p.m. on December ___, 2019, at which time said bids will be publicly opened by the City Clerk and read for the purchase at not less than par plus accrued interest, if any, to the date of delivery of $6,000,000 aggregate principal amount City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2019 (the "Bonds"). Award of the sale of the Bonds will be made by the Governing Body at their meeting to be held at 6:30 p.m. on said date.

THE BONDS: The Bonds will be dated the date of delivery thereof; will be delivered in definitive form as registered Bonds; will be in the denominations of $5,000 or any integral multiple thereof; will be numbered from one upward in the order of issuance; will be payable as to principal at a bank or banks to be designated by the City to serve as paying and transfer agent for the Bonds; and will bear interest, payable semiannually on June 1 and December 1 of each year, commencing December 1, 2020, at the rate or rates of interest specified in the bid submitted by the successful bidder in accordance with this Notice of Bond Sale.

The Bonds will be issued in registered, book-entry-only form and all bidders for the Bonds must be participants of The Depository Trust Company, New York, New York ("DTC"), or affiliated with its participants. The Bond certificates will be deposited with DTC. DTC will be responsible for maintaining a book-entry system for recording the interests of its participants and for the transfer of the interests among its participants. The participants will be responsible for maintaining records regarding the beneficial ownership interests in the Bonds on behalf of the individual purchasers. Individual purchases may be made in the principal amount of $5,000 or any multiple thereof through book entries made on the books and records of DTC and its participants. Unless the book-entry-only system is discontinued, Bond principal and interest payments will be made by the City to DTC through the Paying and Transfer Agent. DTC will then be responsible for distributing such payments to DTC participants for subsequent remittance to the owners of beneficial interests in the Bonds. Payment of principal and interest on the Bonds to DTC is the responsibility of the City, disbursement of such payments to DTC participants shall be the responsibility of DTC, and disbursements of such payments to the owners of beneficial interests shall be the responsibility of DTC participants and not the responsibility of the City. The City will have no responsibility or obligation to DTC participants or owners of beneficial interests in the Bonds, with respect to the payment by DTC or any DTC participants, of the principal of or interest on the Bonds or the providing of notice to DTC participants or owners of beneficial interests in the Bonds or with respect to: (a) the accuracy of any records maintained by DTC or any DTC participant; or (b) any consent given or other action taken by DTC as owner of the Bonds.

MATURITIES: The Bonds will mature on December 1 in the years and in the principal amounts shown below:

Year	Principal Amount	Year	Principal Amount
2020	$205,000	2030	$300,000
2021	215,000	2031	310,000
2022	220,000	2032	320,000
2023	230,000	2033	335,000
2024	240,000	2034	345,000
2025	250,000	2035	360,000
2026	260,000	2036	375,000
2027	265,000	2037	385,000
2028	280,000	2038	400,000
2029	290,000	2039	415,000

REDEMPTION: The Bonds maturing December 1, 2030 and thereafter will be subject to redemption prior to their respective maturities, at the option of the City, on and after December 1, 2020, either in whole or in part on any date, as selected by the City among maturities, and by lot within each maturity, at the principal amount thereof, together with accrued interest to the date fixed for redemption and without premium.

AUTHORITY AND SECURITY: The Bonds will be issued pursuant to the provisions of Sections 21-27-11 *et seq.,* Mississippi Code of 1972, as amended and supplemented from time to time (the "Act"). The Bonds are to be secured by a lien on and payable from the revenues derived and to be derived from the operation of the combined waterworks, water supply, sewerage, and sewer disposal facilities of the City (the "System") after payment of the reasonable and necessary expense of operating and maintaining the System and the debt service on any State Revolving Fund Loans existing on the date of issuance of the Bonds (the "Net Revenues") and other security pledged for the Bonds. The Bonds are not general obligations of the City and the full faith, credit and taxing power of the City are not being pledged to the payment of the Bonds or interest thereon. The Bonds are being issued on parity with the City's $3,500,000 Promissory Note (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, securing the $3,500,000 Mississippi Development Bank Special Obligation Bonds, Series 2013 (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, and the City's $4,000,000 Combined Utility System Revenue Bonds, Series 2018, dated June 1, 2018 (together, the "Prior Obligations").

The resolution under which the Bonds are being issued allows under certain circumstances for Additional Bonds to be issued by the City on parity with the Bonds and the Prior Obligations and secured by a parity lien on such Net Revenues and such Additional Bonds would be payable ratably from such Net Revenues along with the Bonds and the Prior Obligations.

PURPOSE: The Bonds are being issued to provide funds for the purpose of the improvement, repair, and extension of the System, and to pay the costs of the sale and issuance of the Bonds.

FORM OF BIDS: Bids should be addressed to the Governing Body and should be plainly marked "Bid for Combined Utility System Revenue Bonds, Series 2019, of the City of Gautier, Mississippi," and should be filed with the City Clerk on or prior to the date and hour hereinabove named. All bids should be submitted on the form prepared by the City, copies of which may be obtained from the City Clerk at City Hall, 3330 Highway 90, Gautier, Mississippi 39553.

INTEREST RATE AND BID RESTRICTIONS: The Bonds shall be sold at par plus accrued interest and shall not bear a greater overall maximum interest rate to maturity than thirteen percent (13%) per annum, nor shall the interest rate for any one maturity exceed thirteen percent (13%) per annum. No Bond shall bear more than one (1) rate of interest; each Bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid; all Bonds of the same maturity shall bear the same rate of interest from date to maturity; and the lowest interest rate specified shall not be less than seventy percent (70%) of the highest interest rate specified. Each interest rate specified in any bid must be a

multiple of one-eighth of one percent (1/8 of 1%) or one-tenth of one percent (1/10 of 1%) and a zero rate of interest cannot be named. All bids must comply fully with the terms and provisions of the Act.

GOOD FAITH DEPOSIT: Each bid must be accompanied by a cashier's check, certified check, or exchange, issued or certified by a bank located in the State of Mississippi, payable to the City of Gautier, Mississippi, in the amount of One Hundred Twenty Thousand Dollars ($120,000.00) as a guaranty that the bidder will carry out its contract and purchase the Bonds if its bid is accepted. All checks of unsuccessful bidders will be returned immediately on award of the Bonds. If the successful bidder fails to purchase the Bonds pursuant to its bid and contract, then the amount of such good faith check shall be retained by the City as liquidated damages for such failure. No interest will be allowed on the amount of the good faith deposit.

BIDDER'S OPTION BOND INSURANCE: The City has applied for bidder's option bond insurance. Bidders should directly contact the City's municipal advisor, Government Consultants, Inc., 116 Village Boulevard, Madison Mississippi 39110, telephone: (601)982-0005, attention: Mr. Steve Pittman, for further information prior to the sale date.

AWARD OF BONDS: The award, if any, will be made to the bidder complying with the terms of sale and offering to purchase the Bonds at the lowest net interest cost to the City, which shall be determined by computing the aggregate interest on the Bonds over the life of the issue at the rate or rates of interest specified by the bidder, less premium offered, if any. It is requested that each bid be accompanied by a statement of the net interest cost (computed to six decimal places), but such statement will not be considered a part of the bid. All bids shall remain firm for three (3) hours after the time specified for the opening of bids, and an award of the Bonds, or rejection of bids, will be made by the Governing Body within said period of time.

RIGHT OF REJECTION, CANCELLATION: The Governing Body reserves the right to reject any or all bids submitted, as well as to waive any irregularity or informality in any bid. The successful bidder shall have the right, at its option, to cancel its agreement to purchase the Bonds if the Bonds are not tendered for delivery within sixty (60) days from the date of sale thereof, and in such event the Governing Body shall return to said bidder its good faith deposit. The Governing Body shall have the right, at its option, to cancel its agreement to sell the Bonds if within five (5) days after the tender of the Bonds for delivery the successful bidder shall not have accepted delivery of and paid for the Bonds, and in such event the Governing Body shall retain the successful bidder's good faith deposit as liquidated damages as hereinabove provided.

PAYING AGENT, TRANSFER AGENT, AND REGISTRAR: The Governing Body will designate a bank or banks in the State of Mississippi to serve as paying agent, transfer agent and registrar (the "Paying and Transfer Agent") for the Bonds. The Paying and Transfer Agent shall be subject to change by order of the Governing Body under the conditions and in the manner provided in the resolution under which the Bonds are issued. Both principal of and interest on the Bonds will be payable by check or draft mailed to registered owners of the Bonds as of the 15th day of the month preceding the maturity date for such principal or interest payment at the addresses appearing in the registration records of the City maintained by the Paying and Transfer Agent. The Bonds will be transferable only upon the records of the Paying and Transfer Agent, and the payment of principal at maturity shall be conditioned on the proper presentation and surrender of the Bonds to the Paying and Transfer Agent.

PRELIMINARY OFFICIAL STATEMENT: Bidders must acknowledge in their respective bids that they have received and reviewed the City's preliminary official statement related to the issuance of the Bonds (the "Preliminary Official Statement"). The City deems the Preliminary Official Statement to be "final" as described in SEC Rule 15c2-12(b)(1) for the purposes of such Rule. Upon award of the Bonds to the successful bidder, the City will prepare a final official statement in connection with the Bonds (the "Official Statement") in substantially the form of the Preliminary Official Statement, subject to minor amendments and supplementations. A reasonably sufficient number of Official Statements will be made available to the successful bidder at the expense of the City within seven (7) business days of the award of the Bonds to such bidder. Copies of the Preliminary Official Statement may be obtained from Ms.

Cindy Russell, City Clerk, City of Gautier, 3330 Highway 90, Gautier, Mississippi 39553 telephone: (228)497-8000, or the City's municipal advisor, Government Consultants, Inc., 116 Village Boulevard, Madison Mississippi 39110, telephone: (601)982-0005, attention: Mr. Steve Pittman.

The successful bidder must file the Official Statement with a nationally recognized municipal securities information repository (a "Repository") at the earliest practicable date after the date of delivery of the Bonds as required by SEC Rule 15c2-12 and must notify the City of the date which is the "end of the underwriting period" within the meaning of such SEC Rule 15c2-12.

In order to assist bidders in complying with SEC Rule 15c2-12(b)(5), the City, pursuant to a resolution of the Governing Body and a continuing disclosure certificate, will agree to provide annual reports and notices of certain events. A summary of the City's procedures with regard to continuing disclosure is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement.

SUCCESSFUL BIDDERS: The successful bidder shall assist the City in establishing the issue price of the Bonds and shall execute and deliver to the City at the closing for the Bonds an "issue price" or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices of the Bonds, together with the supporting pricing wires or equivalent communications, in a form reasonably required by the City and Bond Counsel.

The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the Bonds) will apply to the initial sale of the Bonds (the "competitive sale requirements") because:

(a) the City shall disseminate this Notice of Bond Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;

(b) all bidders shall have an equal opportunity to bid;

(c) the City may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and

(d) the City anticipates awarding the sale of the Bonds to the bidder who submits a firm offer to purchase the Bonds at the highest price (or lowest interest cost), as set forth in this Notice of Bond Sale.

Any bid submitted pursuant to this Notice of Bond Sale shall be considered a firm offer for the purchase of the Bonds, as specified in the bid.

In the event that the competitive sale requirements are not satisfied, the City shall so advise the winning bidder. The City shall treat the first price at which 10% of a maturity of the Bonds (the "10% test") is sold to the public as the issue price of that maturity, applied on a maturity-by-maturity basis (and if different interest rates apply within a maturity, to each separate CUSIP number within that maturity). The winning bidder shall advise the City if any maturity of the Bonds satisfies the 10% test as of the date and time of the award of the Bonds. The City will not require bidders to comply with the "hold-the-offering-price rule" and therefore does not intend to use the initial offering price to the public as of the sale date of any maturity of the Bonds as the issue price of that maturity. Bids will not be subject to cancellation in the event that the competitive sale requirements are not satisfied. Bidders should prepare their bids on the assumption that all of the maturities of the Bonds will be subject to the 10% test in order to establish the issue price of the Bonds.

If the competitive sale requirements are not satisfied, then until the 10% test has been satisfied as to each maturity of the Bonds, the winning bidder agrees to promptly report to the City the prices at which the unsold Bonds of that maturity have been sold to the public. That reporting obligation shall

continue, whether or not the closing of the Bonds has occurred, until the 10% test has been satisfied as to the Bonds of that maturity or until all Bonds of that maturity have been sold.

By submitting a bid, each bidder confirms that: (i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder is a party) relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the winning bidder that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public, if and for so long as directed by the winning bidder and as set forth in the related pricing wires, and (ii) any agreement among underwriters relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of the Bonds to the public to require each broker-dealer that is a party to such retail distribution agreement to report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the winning bidder or such underwriter that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public, if and for so long as directed by the winning bidder or such underwriter and as set forth in the related pricing wires.

Sales of any Bonds to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Bond Sale. Further, for purposes of this Notice of Bond Sale:

(a) "public" means any person other than an underwriter or a related party,

(b) "underwriter" means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the public),

(c) a purchaser of any of the Bonds is a "related party" to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(d) "sale date" means the date that the Bonds are awarded by the City to the winning bidder.

DELIVERY: The successful bidder must designate within five (5) days of the date of sale, or at such other later date as may be designated by the Governing Body, the names and addresses of the registered owners of the Bonds and the denominations in which the Bonds of each maturity are to be issued. If the successful bidder fails to submit such information within the required time, one Bond may be issued for each maturity in the full amount maturing on that date registered in the name of the successful bidder. The Bonds will be delivered at a place to be designated by the purchaser and without cost to the purchaser, and payment therefor shall be made in immediately available funds.

CUSIP NUMBER: It is anticipated that CUSIP identification numbers will be secured and printed on the Bonds, but neither the failure to secure or print such numbers on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the successful bidder to accept delivery of and pay for the Bonds in accordance with its agreement to purchase the Bonds. All expenses in relation

to the printing of CUSIP numbers on the Bonds shall be paid for by the City; provided, however, that the CUSIP Global Services charge for the assignment of said numbers shall be paid for by the successful bidder.

LEGAL OPINION; CLOSING DOCUMENTS, ETC.: In the opinion of Butler Snow LLP ("Bond Counsel"), assuming compliance by the City with certain tax covenants, under existing statutes, regulations, rulings and court decisions, interest on the Bonds is excludable from gross income for federal income tax purposes. Interest on the Bonds is not a specific preference item for purposes of the federal alternative minimum tax. Bond Counsel will express no other opinion regarding other federal tax consequences resulting from the ownership, receipt or accrual of interest on or disposition of the Bonds. In addition, Bond Counsel is further of the opinion that under and pursuant to the Act, the Bonds and interest thereon are exempt from income taxation in the State of Mississippi.

The Bonds are **NOT** being issued as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended and supplemented from time to time.

The final approving opinion of Bond Counsel, relating to the validity and tax exemption of the Bonds, together with a non-litigation certificate of the City dated the date of delivery of the Bonds, and a transcript of the proceedings relating to the Bonds will be delivered to the successful bidder without charge

FURTHER INFORMATION: Further information with respect to the Bonds may be obtained from Ms. Cindy Russell, City Clerk, City of Gautier, 3330 Highway 90, Gautier, Mississippi 39553 telephone: (228)497-8000, or the City's municipal advisor, Government Consultants, Inc., 116 Village Boulevard, Madison Mississippi 39110, telephone: (601)982-0005, attention: Mr. Steve Pittman.

DATED: November 5, 2019

CITY OF GAUTIER, MISSISSIPPI

By /s/Cindy Russell_____
City Clerk

APPENDIX B

ECONOMIC AND DEMOGRAPHIC INFORMATION OF THE CITY

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THE CITY

General Description

The City of Gautier, Mississippi (the "City") was established in 1867 at the mouth of the Pascagoula River Basin by Fernando Gautier. The City was incorporated in 1986 and is located in Jackson County, Mississippi (the "County") and abuts the Mississippi Gulf Coast waterfront. The City is approximately 105 miles east of New Orleans, Louisiana, approximately 17 miles east of Biloxi, Mississippi, and approximately 182 miles south of Jackson, Mississippi, the capitol of the State of Mississippi (the "State").

Population

City and State population figures have been recorded as follows:

	1990	2000	2010	2017
City	10,130	11,681	18,572	18,512
State	2,573,216	2,844,658	2,967,297	2,988,726

SOURCE: Census Data information at website: www.census.gov; February 2019.

Government

The City operates under a council-manager form of government. The City's governing authority is comprised of the Mayor and a six-member City Council (the "Council"), with five members of the Council being elected from designated wards or precincts, and the Mayor and one member of the Council being elected at large. The current Mayor and members of the Council, elected for concurrent four-year terms expiring on July 1, 2021, are as follows:

Name	Occupation	Position Held Since
Phil Torjusen	Mayor	July, 2017
Mary Martin	Councilwoman At-Large	November, 2010
Cameron B. George	Councilman	July, 2017
Richard "DJ" Jackson	Councilman	July, 2017
Casey Vaughan	Councilman	July, 2013
Rusty Anderson	Councilman	July, 2013
Adam Colledge	Councilman	July, 2009

SOURCE: Office of the City Clerk; February 2019.

Major Employers

The following is a listing of the County's major employers, their products or services and their approximate number of employees:

Employer	Employees	Product/Service
Huntington Ingalls	12,100	Naval Shipbuilding
Chevron Pascagoula Refinery	1,600 Full-time and 2,000+ Contract-workers	Petroleum Refinery
Singing River Health System	2,300	Healthcare
VT Halter Marine, Inc.	1,700	Ship Manufacturing
Pascagoula-Gautier Public School District	1,302	Education
Jackson County Public School District	1,200	Education
Jackson County, MS	775	Government
Ocean Springs School District	750	Education
Wal-Mart Supercenter in Pascagoula	450	Retail
Wal-Mart Supercenter in Ocean Springs	450	Retail
SUPSHIP, Conversion & Repair	400	Government
Descher Organization (McDonald's)	400	Fast Food Restaurants
Moss Point School District	369	Education
MS Power Company	280	Utility
City of Pascagoula	275	Government
USN Gulf Coast Research Lab	206	Marine Science Research
City of Gautier	200	Government
MS Gulf Coast Community College	190	Higher Education

SOURCE: Jackson County Economic Development Foundation; February 2019.

Per Capita Income

Year	County	Mississippi	United States	County as % Of U.S.
2017	$36,449	$36,636	$51,640	71%
2016	35,890	35,812	49,831	72
2015	35,429	35,137	48,940	72
2014	34,905	34,633	47,025	74
2013	34,494	33,851	44,826	77

[1] Per capita personal income was computed using Census Bureau midyear population estimates. Estimates for 2013-2017 reflect county population estimates available as of March 2018; last updated November 15, 2018.

SOURCE: Bureau of Economic Analysis: Regional Economic Accounts at website: www.bea.gov, 2013-2017; February 2019.

County Employment Statistics

	2013	2014	2015	2016	2017
Residence Based Employment					
Civilian Labor Force	60,950	59,100	58,980	59,180	59,120
Unemployed	5,410	4,720	4,150	3,900	3,450
Unemployment Rate	8.9	8.0	7.0	6.6	5.8
Employed	55,540	54,380	54,830	55,280	55,670
Establishment Based Employment					
Manufacturing	13,460	14,590	14,390	14,440	14,060
Non-manufacturing (Total)	38,830	37,800	37,920	37,580	36,990
Agriculture, Forestry, Fishing, Hunting	30	30	40	50	40
Mining	70	60	50	40	30
Utilities	460	470	520	470	500
Construction	5,330	4,470	4,450	3,980	3,270
Wholesale Trade	520	540	570	540	520
Retail Trade	4,730	4,710	4,790	4,910	4,960
Transportation & Warehousing	830	720	560	540	490
Information	610	610	630	570	540
Finance & Insurance	1,050	1,060	1,080	1,090	1,090
Real Estate, Rental & Leasing	390	400	420	480	480
Professional, Scientific & Technical Services	1,700	1,680	1,780	1,810	1,850
Management of Companies & Entertainment	470	460	470	380	350
Administrative Support & Waste Management	2,890	3,100	2,600	2,160	2,160
Educational Services	160	130	150	180	210
Health Care & Social Assistance	3,200	3,280	3,420	3,590	3,660
Arts, Entertainment & Recreation	0	0	0	0	0
Accommodation & Food Services	4,460	4,450	4,660	4,950	5,000
Other Services (except Public Administration)	1,800	1,740	1,760	1,730	1,710
Government	10,130	9,890	9,970	10,110	10,130
Education	3,820	3,800	3,810	3,850	3,870
Total Nonagricultural Employment	**52,290**	**52,390**	**52,310**	**52,020**	**51,050**

SOURCE: Annual Labor Force, Labor Market Information Department, Mississippi Employment Security Commission, Annual Averages 2011 forward, last revision May 2, 2018. Note: This represents the most current information available as of February 2019.

County Unemployment Statistics

Year	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Annual Average
2013	10.5	9.4	9.0	8.5	9.1	9.5	9.0	8.2	8.4	8.5	8.2	8.2	8.9%
2014	9.1	8.3	8.2	7.5	8.3	8.6	8.4	7.7	7.6	7.4	7.3	7.4	8.0%
2015	8.1	7.1	6.8	6.5	7.4	7.8	7.5	6.5	6.6	6.6	6.7	6.8	7.0%
2016	7.3	6.7	6.5	6.2	6.8	7.4	7.0	6.3	6.3	6.2	5.9	6.2	6.6%
2017	7.2	6.2	5.9	5.3	6.0	6.5	6.4	5.5	5.5	5.2	5.0	5.3	5.8%
2018	5.3	5.2	5.0	4.8	5.7	6.4	6.0	5.6	5.4	4.9	4.8	--	--

SOURCE: *Annual Labor Force Report,* Labor Market Information Department, Mississippi Employment Security Commission. Note: This represents the most current information available as of February 2019.

Retail Sales

State Fiscal Year Ended June 30	Gautier
2018	$175,550,377
2017	174,079,615
2016	175,930,251
2015	167,817,984
2014	166,943,639

SOURCE: Annual Report for each year shown, Mississippi Department of Revenue; February 2019.

Educational Facilities

The Pascagoula-Gautier School District (the "District") currently consists of the entire City of Gautier, most of the City of Pascagoula and certain outlying areas in Jackson County not located in the city limits of the City of Gautier and the City of Pascagoula. The District currently operates 19)schools - ten elementary schools (K-5), two middle schools (6-8), two sixth grade academies, two high schools (9-12), and three specialty schools. Currently the District employs a total of approximately 1,300 people, with approximately 650 of those being certified teachers.

Enrollment figures for the District's current scholastic year and the previous four years are as follows:

Scholastic Year	Enrollment
2018-19	6,866
2017-18	7,054
2016-17	7,256
2015-16	7,227
2014-15	7,129

SOURCE: Pascagoula-Gautier School District and Office of Research and Statistics, Mississippi Department of Education; February 2019.

Employee Benefits; Impact of GASB-68

The City has no pension plan or retirement plan for its employees. City employees are members of and contribute to the Mississippi Public Employees' Retirement System (PERS), a cost-sharing, multiple employer retirement system administered by the State for the benefit of its local governments and State personnel. Benefit provisions are established by State statute and may be amended from time to time only by the State Legislature.

In June 2012, the Government Accounting Standards Board issued Statement No. 68, Accounting and Financial Reporting for Pensions ("GASB-68"). The objective of GASB-68 is to improve accounting and financial reporting of government pensions. Also, GASB-68 improves information provided by government employers about financial support for pensions that is provided by other entities. Requirements of GASB-68 are effective for financial statements whose fiscal year begins after June 15, 2014 (Fiscal Year 2015 for the City).

Employer contribution rates are set by State statute. The percentage that an employer is required to contribute was increased from 14.26% to 15.75% effective July 1, 2013. The adequacy of these rates is assessed annually by actuarial valuation. As a result of the implementation of GASB-68 and based on the actuarial report of Cavanaugh McDonald Consulting, LLC for Fiscal Year 2017, the total unfunded actuarial accrued liability attributable to the City is $11,636,376, based upon the City's percentage of total employer contributions to PERS. See page 37 of the City's Fiscal Year 2017 Audited Financial Statement.

TAX INFORMATION

Assessed Valuation[1]

Assessment Year	Real Property	Personal Property[2]	Public Utility Property	Total
2018	$88,976,976	$24,760,086	$7,612,361	$121,349,423
2017	88,910,357	24,142,590	7,518,392	120,571,339
2016	88,951,909	22,960,414	7,448,723	119,361,046
2015	84,931,947[3]	22,026,196	8,377,308	115,335,451
2014	89,505,278	23,885,955	8,356,674	121,747,907

[1] The total assessed valuation is approved in September preceding the fiscal year of the City and represents the value of real property, personal property and public utility property for the year indicated on which taxes are assessed for the following fiscal year's budget. For example, the taxes for the assessed valuation figures for 2018 are collected starting in February 2019 for the 2018-19 fiscal year budget of the City.

[2] Personal Property includes mobile homes and automobiles.

[3] Decrease in real property assessed value due to the demolition of commercial property during the 2015 tax year, and subsequent adjustments to the tax rolls.

SOURCE: Jackson County Tax Assessor; February 2019.

Assessed valuations are based upon the following assessment ratios:

(a) Real and personal property (excluding single-family owner-occupied residential real property and motor vehicles, respectively), fifteen percent (15%) of true value;

(b) Single-family owner-occupied residential real property, ten percent (10%) of true value;

(c) Motor vehicles and public utility property, thirty percent (30%) of true value.

The 1986 Session of the Mississippi Legislature adopted House Concurrent Resolution No. 41 (the "Resolution"), pursuant to which there was proposed an amendment to the Mississippi Constitution of 1890 (the "Amendment"). The Amendment provided, *inter alia*, that the assessment ratio of any one class of property shall not be more than three times the assessment ratio on any other class of property.

The Amendment set forth five classes of property and the assessment ratios which would be applicable thereto upon the adoption of the Amendment. The assessment ratios set forth in the Amendment are identical to those established by Section 27-35-4, Mississippi Code of 1972, as it existed prior to the Amendment, except that the assessment ratio for single-family, owner-occupied residential real property under the Amendment is set at ten percent (10%) of true value as opposed to fifteen percent (15%) of true value under previously existing law.

Procedure for Property Assessments

The Tax Assessor of Jackson County assesses all real and personal property subject to taxation in the County, including property in the City, except motor vehicles and property owned by public service corporations, both of which are required by law to be assessed by the Mississippi Department of Revenue.

Section 21-33-9, Mississippi Code of 1972, as amended, provides that the governing authorities of a municipality which is located within a county having completed a county-wide reappraisal approved by the Mississippi Department of Revenue and which has been furnished a true copy of that part of the county assessment roll containing the property located within a municipality as provided in Section 27-35-167, Mississippi Code of 1972, as amended, shall adopt such assessment rolls for its assessment purposes. The City is utilizing the assessment rolls of the County.

The City may not correct or revise such assessment rolls except for the purpose of conforming the municipal assessment roll to corrections or revisions made to the County assessment roll. All objections to the municipal assessment roll may be heard by the Board of Supervisors of the County at the time and in the manner that objections to the County assessment roll are heard. The Board of Supervisors shall notify, in writing, the Governing Body and the Tax Assessor of the City of any corrections or revisions made by it to the part of the County assessment roll adopted as the municipal assessment roll.

Tax Levy per $1,000 Valuation[1]

	2018-19	2017-18	2016-17	2015-16	2014-15
General Purposes	33.89[2]	30.09	26.79	26.79	26.79
Debt Service	8.11	8.11	8.11	8.11	8.11
Library	1.00	1.00	1.00	1.00	1.00
Public Safety	0.00	1.80	1.80	1.80	1.80
Total Levy	43.00	41.00	37.70	37.70	37.70

[1] Tax levy figures are given in mills.
[2] 2.8 mills is dedicated to public safety.

SOURCE: Office of the City Clerk; September 2019.

Ad Valorem Tax Collections of the City[1]

Fiscal Year Ended September 30	Amount Budgeted	Amount Collected	Difference Over/(Under)
2018	$4,639,851	$4,720,891	$81,040
2017	4,217,327	4,327,480	110,153
2016	4,107,909	4,113,896	5,987
2015	4,322,574	4,263,480	(59,094)
2014	3,217,821	3,183,344	(34,477)

[1] Does not include school taxes.

SOURCE: Office of the City Clerk; February 2019.

Procedure for Tax Collections

The Governing Body is required to levy a special tax upon all of the taxable property within the geographical limits of the City each year sufficient to provide for the payment of the principal of and interest on the City's general obligation bonds. If any taxpayer neglects or refuses to pay his taxes on the due date thereof, the unpaid taxes bear interest at the rate of one percent (1%) per month or fractional part thereof from the delinquent date to the date of payment of such taxes. When enforcement officers take action to collect delinquent taxes, other fees, penalties and costs may accrue. Both real property and personal property are subject to public tax sale.

Section 21-33-63, Mississippi Code of 1972, as may be amended from time to time, and related statutes provide that after the fifteenth day of February and after the fifteenth day of August in each year, the tax collector for each municipality shall advertise all lands in such municipality on which all the taxes due and in arrears have not been paid, as well as all land liable for sale on the first Monday of April or the third Monday of September following, as the case may be.

Reappraisal of Property and Limitation on Ad Valorem Levies

Senate Bill No. 2672, General Laws of Mississippi, Regular Session 1980, codified in part as Sections 27-35-49 and 27-35-50, Mississippi Code of 1972 (the "Reappraisal Act"), provides that all real and personal property in the State shall be appraised at true value and assessed in proportion to true value. To ensure that property taxes do not increase dramatically as the counties complete reappraisals, the Reappraisal Act provides for the limit on increase in tax revenues discussed below.

The statute limits ad valorem tax levies by the City subsequent to October 1, 1980, to a rate which will result in an increase in total receipts of not greater than ten percent (10%) over the previous year's receipts, excluding revenue from ad valorem taxes on any newly constructed properties, any existing properties added to the tax rolls or any properties previously exempt which were not assessed in the next preceding year. This limitation does not apply to levies for the payment of the principal of and the interest on general obligation bonds issued by the City or to certain other specified levies. The limitation may be increased only if the proposed increase is approved by a majority of those voting in an election held on such question.

On August 20, 1980, the Mississippi Supreme Court rendered its decision in *State Tax Commission v. Fondren*, 387 So.2d 712, affirming the decree of the Chancery Court of the First Judicial District of Hinds County, Mississippi, wherein the Mississippi Department of Revenue (formerly the State Tax Commission) was enjoined from accepting and approving assessment rolls from any county in the

State for the tax year 1983 unless the Mississippi Department of Revenue equalized the assessment rolls of all of the counties. Due to the intervening passage of the Reappraisal Act, the Supreme Court reversed that part of the lower court's decree ordering the assessment of property at true value (although it must still be appraised at true value), holding instead that assessed value may be expressed as a percentage of true value. Pursuant to the Supreme Court modification of the Chancellor's decree, on November 15, 1980, the Mississippi Department of Revenue filed a master plan to assist counties in determining true value. On February 7, 1983, the Chancery Court granted an extension until July 1, 1984, of its previous deadline past which the Mississippi Department of Revenue could not accept and approve tax rolls from counties which had not yet reappraised. The City has completed reappraisal.

Homestead Exemption

The Mississippi Homestead Exemption Law of 1946 reduces the local tax burden on homes qualifying by law and substitutes revenues from other sources of taxation on the State level as a reimbursement to the local taxing units for such tax loss. Provisions of the homestead exemption law determine qualification, define ownership and limit the amount of property that may come within the exemption. The exemption is not applicable to taxes levied for the payment of the Bonds, except as hereinafter noted.

Those homeowners who qualify for the homestead exemption and who have reached the age of sixty-five (65) years on or before January 1 of the year for which the exemption is claimed, service-connected, totally disabled American veterans who were honorably discharged from military service and those qualified as disabled under the federal Social Security Act are exempt from any and all ad valorem taxes on qualifying homesteads not in excess of $7,500 of assessed value thereof.

The tax loss resulting to local taxing units from properly qualified homestead exemptions is reimbursed by the Mississippi Department of Revenue. Beginning with the 1984 supplemental ad valorem tax roll and for each roll thereafter, no taxing unit shall be reimbursed an amount in excess of one hundred six percent (106%) of the total net reimbursement made to such taxing unit in the next year.

Largest Taxpayers

The ten largest taxpayers in the City of Gautier for assessment year 2017 are as follows:

Taxpayer	Assessed Valuation	Taxes Collected
Singing River EPA	$7,527,872	$323,699
Lowe's Home Centers, Inc #2700	1,670,928	245,291
Bienville Medical	1,443,345	220,816
KLP Toulon Apartments, LP	1,829,764	252,191
Reserve of Gautier, LLC	758,262	111,312
Ocean Estates II, LLC	716,096	105,122
Villas of Hickory Hills, Inc.	691,475	101,508
Belk	505,978	74,276
Jerry Lee's	450,910	66,192
MS Apartments LLC	442,615	64,975
Totals:	$16,037,245	$1,565,382

SOURCE: Office of the Jackson County Tax Collector; February 2019.

DEBT INFORMATION

Legal Debt Limit Statement[1]

(as of February 1, 2019)

	15% Limit	20% Limit
Authorized Debt Limit (Last Completed Assessment for Taxation - $121,349,423)	$18,202,413	$24,269,885
Present Debt Subject to Debt Limits	5,280,000	5,280,000
Margin for Further Debt Under Debt Limits	$12,922,413	$18,989,885

[1] Does not include the City Bond.

SOURCE: Office of the City Clerk; February 2019.

Statutory Debt Limits

The City is subject to a general statutory debt limitation under which no municipality in the State may incur general obligation bonded indebtedness in an amount which will exceed fifteen percent (15%) of the assessed value of the taxable property within such municipality according to the last completed assessment for taxation.

In computing general obligation bonded indebtedness for purposes of such fifteen percent (15%) limitation, there may be deducted all bonds or other evidences of indebtedness issued for school, water and sewerage systems, gas and light and power purposes and for the construction of special improvements primarily chargeable to the property benefited, or for the purpose of paying a municipality's proportion of any betterment program, a portion of which is primarily chargeable to the property benefited. However, in no case may a municipality contract any indebtedness payable in whole or in part from proceeds of ad valorem taxes which, when added to all of its outstanding general obligation indebtedness, both bonded and floating, exceeds twenty percent (20%) of the assessed value of the taxable property within such municipality.

In arriving at the limitations set forth above, bonds issued for school purposes, bonds payable exclusively from the revenues of any municipally-owned utility, general obligation industrial bonds issued under the provisions of Sections 57-1-1 to 57-1-51, Mississippi Code of 1972, as amended, and special assessment improvement bonds issued under the provisions of Sections 21-41-1 to 21-41-53, Mississippi Code of 1972, as amended, are not included. Also excluded from both limitations are contract obligations subject to annual appropriations.

Outstanding General Obligation Bonded Debt

(as of February 1, 2019)

Issue	Date of Issue	Outstanding Principal
General Obligation Katrina Loan Refunding Bonds, Series 2010	02/01/10	$ 540,000
General Obligation Bonds, Series 2010	08/01/10	4,740,000
Total		$5,280,000

Outstanding Water and Sewer Revenue Bond Debt

(as of February 1, 2019)

Issue	Date of Issue	Outstanding Principal
State Revolving Fund Loan #3[1]	01/06	$ 559,260.41
State Revolving Fund Loan #4[1]	09/06	671,081.04
State Revolving Fund Loan #4[1]	10/06	864,995.18
State Revolving Fund Construction Loan #5[1]	06/08	214,604.44
State Revolving Fund Construction Loan #6[1]	09/09	428,757.08
State Revolving Fund Construction Loan #7[1]	09/09	1,056,804.17
Combined Utility System Revenue Refunding Bonds, Series 2012[2]	5/31/12	1,390,000.00
Promissory Note Relating to Mississippi Development Bank Special Obligation Bonds (Combined Utility System Revenue Project)[3]	8/13/13	2,815,000.00
Combined Utility System Revenue Bonds, Series 2018[2]	6/01/18	4,000,000.00
Total		$12,000,502.32

[1] The SRF Loans of the State to the City were for the benefit of the City combined water and sewer system (the "System"). The SRF Loans have a lien on Revenues of the System; however, the debt service is collected by the Mississippi Department of Revenue by diverting sales tax collections prior to remittance of the sales tax to the City.

[2] Payable solely from the revenues derived from the operation of the combined utility system of the City, subject to the prior payment of the reasonable and necessary expense of operating and maintaining the System and the payment of the SRF loans.

[3] Loan from the Mississippi Development Bank (the "Bank") secured by a Promissory Note under a Loan Agreement between the Bank and the City and is secured by revenues of the City derived from the operation of the combined utility system. The Promissory Note and Loan Agreement secure the Bank's $3,500,000 Special Obligation Bonds, Series 2013 (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013.

SOURCE: Office of the City Clerk; February 2019.

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General Obligation Annual Debt Service Requirements

FY Ending September 30	Principal	Interest	Total
2019	$ 600,000.00	$ 180,627.51	$ 780,627.51
2020	630,000.00	161,262.51	791,262.51
2021	370,000.00	145,868.76	515,868.76
2022	385,000.00	134,768.76	519,768.76
2023	405,000.00	122,256.26	527,256.26
2024	390,000.00	109,093.76	499,093.76
2025	400,000.00	95,443.76	495,443.76
2026	405,000.00	81,443.76	486,443.76
2027	415,000.00	66,762.50	481,762.50
2028	420,000.00	51,200.00	471,200.00
2029	425,000.00	34,400.00	459,400.00
2030	435,000.00	17,400.00	452,400.00
Total	$5,280,000.00	$1,200,527.28	$6,480,527.58

SOURCE: Office of the City Clerk; February 2019.

Overlapping/Underlying General Obligation Indebtedness

(As of February 2019)

Political Subdivision	2010 Population	2018-19 Current Assessed Valuation	General Obligation Bonded Debt	General Obligation Bonded Debt Per Capita
Jackson County[1]	139,668	$2,007,041,955	$46,724,039	$334.54

School District	Current Assessed Valuation	General Obligation Bonded Debt
Pascagoula-Gautier School District	$1,031,568,690	$0.00[2]

[1]Source: County Administrator, February 2018.
[2] Source: School district's FY 2017 Audit.

APPENDIX C

FISCAL YEAR 2017 AUDITED FINANCIAL STATEMENT, FISCAL YEAR 2018 BUDGET AND FISCAL YEAR 2019 BUDGET

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FISCAL YEAR 2018 BUDGET

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FISCAL YEAR 2019 BUDGET

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APPENDIX D

DEFINITIONS

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DEFINITIONS

The following words and phrases shall have the following meanings unless the context otherwise requires:

Act

"Act" shall mean Sections 21-27-11 *et seq*., Mississippi Code of 1972, as amended and supplemented from time to time.

Additional Bonds

"Additional Bonds" shall mean additional bonds issued hereafter on parity with the Series 2019 Bonds and secured by Net Revenues of the System.

Beneficial Owner

"Beneficial Owner" shall mean, whenever used with respect to a Series 2019 Bond, the person in whose name such Series 2019 Bond is recorded as the beneficial owner of such Series 2019 Bond by a DTC Participant on the records of such DTC Participant, or such person's subrogee.

Bond Counsel

"Bond Counsel" shall mean Butler Snow LLP, Ridgeland, Mississippi.

Bond Resolution

"Bond Resolution" shall mean the resolution, adopted by the Governing Body on December ___, 2019, authorizing and directing the issuance of the Series 2019 Bonds.

Bond Year

"Bond Year" shall mean the one-year period (or shorter period beginning on the date of issue of the Series 2019 Bonds or ending on the final maturity date of the Series 2019 Bonds) ending at the close of business on the day selected by the City. If no day is selected by the City before the earlier of the final maturity date of the Series 2019 Bonds or the date that is five years after the date of issue of the Series 2019 Bonds, each Bond Year will end on each anniversary of the date of issue of the Series 2019 Bonds.

Bondholder or Bondholders or Holder or Holders

"Bondholder" or "Bondholders" or "Holder" or "Holders" or any similar term shall mean the registered owner of any Series 2019 Bond.

Bonds

Bonds" shall mean the Series 2019 Bonds, the Utility Bonds and any Additional Bonds issued on parity with the Series 2019 Bonds and the Utility Bonds and secured by the Net Revenues of the System.

Business Day

"Business Day" shall mean any day other than (a) a Saturday, (b) a Sunday, (c) any other day on which banking institutions in New York, New York or Gautier, Mississippi, are authorized or required not to be open for the transaction of regular banking business, (d) any day the City Hall in Gautier, Mississippi is closed, or (e) a day on which the New York Stock Exchange is closed.

City

"City" shall mean the City of Gautier, Mississippi.

Clerk

"Clerk" shall mean the City Clerk of the City.

Closing

"Closing" shall mean the date of the delivery of the Series 2019 Bonds.

Code

"Code" shall mean the Internal Revenue Code of 1986, as amended, supplemented or superseded and the Regulations promulgated thereunder.

Consulting Engineers

"Consulting Engineers" shall mean any engineer or engineering firm employed by the City in connection with the System or for the purposes set out in the Bond Resolution.

Costs of the Project

"Costs of the Project" shall mean the costs of the acquisition, construction and equipping of the Project and, without intending thereby to limit or restrict any proper definition of such term under the provisions of the Act or the Bond Resolution, shall include the following:

(a) obligations incurred for labor and materials, for contractors, builders and materialmen in connection with construction, for machinery and equipment, for the restoration or relocation of property damaged or destroyed in connection with such construction, for the removal or relocation of structures and for the clearing of lands;

(b) the cost of acquiring by purchase, if such purchase shall be deemed expedient, and the amount of any deposit in court or award or final judgment in or any settlement or compromise of any proceeding to acquire by eminent domain, lands, property, property rights, rights-of-way, easements, franchises, licenses, options and partial payments thereon, the cost of demolishing or removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, and the amount of any damages incident to or consequent upon the construction and operation of the Project;

(c) taxes or other municipal or governmental charges lawfully levied or assessed during construction upon the Project or any property acquired therefor, and premiums on insurance (if any) in connection with the Project during construction;

(d) the cost of borings and other preliminary investigations to determine foundation or other conditions, expenses necessary or incident to determining the feasibility or practicability of constructing the Project, and fees and expenses of engineers for making surveys and estimates of costs and of revenues and other estimates and for preparing plans and specifications and supervising construction, as well as for the performance of all other duties of engineers set forth in the Bond Resolution in relation to the construction of the Project and the issuance of the Series 2019 Bonds;

(e) expenses of administration properly chargeable to the Project, expenses of officers of the City in connection with the Series 2019 Bonds, legal expenses and fees, fees and expenses of any financial advisor or consultant, financing charges, capitalized interest, costs of audits and of preparing and issuing the Series 2019 Bonds, payments in connection with the 2019 Debt Service Reserve Fund, the 2019 Contingency Fund, the 2019 Depreciation Fund and all other items of expense reasonably incurred incident to the acquisition, construction and equipping of the Project, the financing thereof, the placing of the same in operation (including the initial premiums on any insurance required or obtained under the provisions of the Bond Resolution) and the acquisition of franchises and interest therefor, including abstracts of title, title insurance, costs of surveys and other expenses in connection with such acquisition; and

(f) any obligation or expense heretofore or hereafter incurred and any amount heretofore or hereafter advanced by the City for any of the foregoing purposes.

Current Expenses

"Current Expenses" shall mean the reasonable and necessary current expenses of maintenance, repair and operation of the System and shall include, without limiting the generality of the foregoing, expenses not annually recurring, premiums for insurance, administrative and engineering expenses relating to maintenance, repair and operation, fees and expenses of the Paying Agent, legal expenses, taxes lawfully imposed on the System, reasonable payments to pension or retirement funds for employees of the System and any other expense of the System required or permitted to be paid by the City under the provisions of the Bond Resolution or by law, but shall not include any allowance for depreciation or transfers to the credit of the 2019 Debt Service Fund, the 2019 Debt Service Reserve Fund, the 2019 Depreciation Fund or the 2019 Contingent Fund.

Debt Service Reserve Fund Requirement

"Debt Service Reserve Fund Requirement" shall mean the lesser of the following: (i) the maximum amount of principal and interest becoming due in the current or any future Bond Year, on all Series 2019 Bonds then outstanding; (ii) 125% of average annual debt service on the Series 2019 Bonds; or (iii) 10% of the stated principal amount of the Series 2019 Bonds, or if the Series 2019 Bonds have more than a de minimis amount (as defined in Section 1.148-1(b) of the Treasury Regulations) of original issue discount or premium, 10% of the issue price (as defined in Section 1.148-1(b) of the Treasury Regulations) of the Series 2019 Bonds), which Debt Service Reserve Fund Requirement may be funded with cash or a Reserve Fund Credit Facility; provided, however, that upon initial issuance of the Series 2019 Bonds, the Debt Service Reserve Fund Requirement will mean the amount set forth in (i) hereinabove and in future years if the amount of the Debt Service Reserve Fund Requirement should equal an amount in excess of the lesser of (i), (ii) and (iii) above, the funds held in the 2019 Debt Service Reserve Fund will not be invested at a yield in excess of the yield on the Series 2019 Bonds.

Direct Participant

"Direct Participant" shall mean a broker-dealer, bank or other financial institution for which the Securities Depository holds Series 2019 Bonds as a securities depository.

DTC

"DTC" means The Depository Trust Company, New York, New York.

DTC participants

"DTC participants" shall mean any participant for whom DTC is a Securities Depository Nominee.

Fiscal Year

"Fiscal Year" shall mean a period beginning on October 1 in any year and ending on September 30 of the following year.

Governing Body

"Governing Body" shall mean the Mayor and City Council of the City.

Indirect Participant

"Indirect Participant" shall mean a broker-dealer, bank or other financial institution for which the Securities Depository holds Series 2019 Bonds as a securities depository through a Direct Participant.

Mayor

"Mayor" shall mean the Mayor of the City.

Municipal Advisor

"Municipal Advisor" shall mean Government Consultants, Inc., Madison, Mississippi, as independent registered municipal advisor to the City.

Net Revenues

"Net Revenues" shall mean all Revenues remaining after payment of Current Expenses and debt service on the SRF Loans.

Operation and Maintenance Fund

"Operation and Maintenance Fund" shall mean the fund by that name held by the City for the operation and maintenance of the System.

Paying Agent

"Paying Agent" shall mean any bank, trust company or other institution designated by the Governing Body to make payments of the principal of and interest on the Series 2019 Bonds, and to serve as registrar and transfer agent for the registration of owners of the Series 2019 Bonds, and for the performance of other duties as may be specified by the Governing Body.

Person

"Person" shall mean an individual, partnership, limited liability company, corporation, trust or unincorporated organization and a government or agency or political subdivision thereof.

Principal and Interest Requirements

"Principal and Interest Requirements" for any Bond Year shall mean the sums sufficient for the payment of the principal of and interest on the Series 2019 Bonds, the Utility Bonds and any Additional Bonds which will mature and accrue during such period.

Prior Bond Resolutions

"Prior Bond Resolutions" shall collectively mean the 2012 Bond Resolution, the 2013 Loan Agreement and the 2018 Bond Resolution.

Project

"Project" shall mean (a) the improvement, repair and extension of the combined utility system of the City, (b) the funding of the 2019 Debt Service Reserve Fund, and (c) the payment of the costs of issuance of the Series 2019 Bonds.

Purchaser

"Purchaser" shall mean _____, the successful bidder for the Series 2019 Bonds.

Record Date

"Record Date" shall mean, as to interest payments, the 15th day of the month preceding the dates set for payment of interest on the Series 2019 Bonds and, as to payments of principal, the 15th day of the month preceding the maturity date thereof.

Redemption Date

"Redemption Date" shall mean the date on which the Refunded Bonds are called for redemption.

Redemption Price

"Redemption Price" shall mean the principal amount, plus the applicable premium, if any, and interest payable on the Refunded Bonds upon redemption prior to maturity.

Registered Owner

"Registered Owner" shall mean the person whose name shall appear in the registration records of the City maintained by the Paying Agent.

Revenue Fund

"Revenue Fund" shall mean the fund by that name held by the City for the deposit of Revenues of the System.

Revenues

"Revenues" shall mean all payments, proceeds, fees, charges, rents and all other income derived by or for the account of the City from its ownership and operation of the System, excluding all acreage, front-footage, assessment and similar fees and charges derived by the City in connection with the provision of or payment for capital improvements constituting a part of the System.

Securities Depository

"Securities Depository" shall mean The Depository Trust Company and any substitute for or successor to such securities depository that shall maintain a Book-Entry System with respect to the Bonds.

Securities Depository Nominee

"Securities Depository Nominee" shall mean the Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the registration records the Bonds to be delivered to such Securities Depository during the continuation with such Securities Depository of participation in its Book-Entry System.

Series 2012 Bonds

"Series 2012 Bonds" shall mean the $9,185,000 (original principal amount) City of Gautier, Mississippi Combined Utility System Revenue Refunding Bonds, Series 2012, dated May 31, 2012, which have been paid in full.

Series 2018 Bonds

"Series 2018 Bonds" shall mean the $4,000,000 (original principal amount) City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2018, dated June 1, 2018.

Series 2019 Bonds

"Series 2019 Bonds" shall mean the Combined Utility System Revenue Bonds, Series 2019, of the City in an aggregate principal amount of $6,000,000, dated the date of delivery thereof.

SRF Loans

"SRF Loans" shall mean the State Revolving Fund Loans, existing on the date of issuance of the Series 2019 Bonds, from the State to the City under Sections 49-17-1 *et seq.*, Mississippi Code of 1972,

as amended from time to time, which SRF Loans have a lien on Revenues of the System; however, the debt service for the SRF Loans is collected by the Mississippi Department of Revenue by diverting sales tax collections prior to remittance of the sales tax to the City and then subsequently reimbursed to the City from the Revenues of the System.

State

"State" shall mean the State of Mississippi.

System

"System" shall mean the combined waterworks, water supply, sewerage, and sewer disposal facilities of the City, including any enlargement and extension thereof.

2012 Bond Resolution

"2012 Bond Resolution" shall mean the resolution adopted by the Governing Body on April 24, 2012, authorizing and directing the issuance of the Series 2012 Bonds.

2013 Debt Service Fund

"2013 Debt Service Fund" shall mean the fund created and established under the 2013 Loan Agreement for the payment of debt service on the 2013 Note and bonds issued on parity therewith, including the Series 2019 Bonds.

2013 Note

"2013 Note" shall mean the $3,500,000 (original principal amount) City of Gautier, Mississippi Promissory Note (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, securing the $3,500,000 (original principal amount) Mississippi Development Bank Special Obligation Bonds, Series 2013 (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013.

2013 Loan Agreement

"2013 Loan Agreement" shall mean the Loan Agreement by and between the Mississippi Development Bank and the City, dated August 13, 2013, as amended or supplemented, pursuant to which the City borrowed the proceeds of the $3,500,000 (original principal amount) Mississippi Development Bank Special Obligation Bonds, Series 2013 (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, which are secured by the 2013 Note.

2018 Bond Resolution

"2018 Bond Resolution" shall mean the resolution adopted by the Governing Body on April 3, 2018, authorizing and directing the issuance of the Series 2018 Bonds.

2018 Debt Service Fund

"2018 Debt Service Fund" shall mean the fund created and established under the 2018 Bond Resolution for the Series 2018 Bonds and bonds issued on parity therewith, including the Series 2019 Bonds.

2019 Debt Service Fund

"2019 Debt Service Fund" shall mean the fund by that name provided for in the Bond Resolution.

2019 Contingent Fund

"2019 Contingent Fund" shall mean the fund by that name provided for in the Bond Resolution.

2019 Debt Service Reserve Fund

"2019 Debt Service Reserve Fund" shall mean the subaccount by that name provided for in the Bond Resolution.

2019 Depreciation Fund

"2019 Depreciation Fund" shall mean the fund by that name provided for in the Bond Resolution.

Utility Bonds

"Utility Bonds" shall mean the 2013 Note and the Series 2018 Bonds.

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APPENDIX E

FORM OF BOND COUNSEL OPINION

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[FORM OF BOND COUNSEL OPINION]

Mayor and City Council
City of Gautier, Mississippi
Gautier, Mississippi

Re: $6,000,000 City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2019

Ladies and Gentlemen:

We have acted as bond counsel ("Bond Counsel") for the City of Gautier, Mississippi (the "City"), in connection with the issuance of the Combined Utility System Revenue Bonds, Series 2019, dated the date of delivery thereof, in the total aggregate principal amount of $6,000,000 (the "Series 2019 Bonds"). In such capacity, we have examined the Constitution and statutes of the State of Mississippi (the "State"), including particularly Sections 21-27-11 *et seq.*, Mississippi Code of 1972, as amended and supplemented from time to time (the "Act"), and certified copies of the proceedings had by the Mayor and City Council of the City (the "Governing Body"), including the adoption of resolutions on November 21, 2017, January 2, 2018, November 5, 2019 and December 3, 2019 (collectively, the "Resolution"), and other proofs submitted to us, relative to the sale and issuance by the City, acting by and through the Governing Body, of the Series 2019 Bonds.

The Series 2019 Bonds bear interest, mature and may be transferred and exchanged as set out in the Series 2019 Bonds and in the Resolution. Capitalized terms not defined herein are to be defined as set forth in the Resolution.

We have acted as Bond Counsel for the sole purpose of rendering an opinion with respect to the legality and validity of the Series 2019 Bonds under the laws of the State, including particularly the Act, and with respect to the excludability of the interest on the Series 2019 Bonds from federal and State income taxation. Regarding questions of fact material to our opinion, we have not investigated or verified original proceedings, records, data or other material, but have relied solely upon the certified transcript of proceedings described in the following paragraph and on the authenticity, truthfulness and completeness set forth in such documents, instruments and certificates. We have not assumed any responsibility with respect to the financial condition or capabilities of the City or the disclosure thereof in connection with the sale of the Series 2019 Bonds.

In our capacity as Bond Counsel, we have participated in the preparation of and have examined a certified transcript of proceedings pertaining to the Series 2019 Bonds which contains copies of certain proceedings of the City, customary certificates of officers, agents and representatives of the City and other public officials and other matters relating to the authorization and issuance of the Series 2019 Bonds, including a certification of the City prepared pursuant to Section 1.148-2(b)(2)(i) of the United States Treasury Regulations (the "Non-Arbitrage Certificate"). We have also examined Series 2019 Bond No. 1 of this issue.

Based on such examination and subject to the qualifications and assumptions that follow, it is our opinion, on the date hereof, that:

1. Such proceedings reflect lawful authority for the sale and issuance of the Series 2019 Bonds by the City pursuant to the Constitution and laws of the State, including the Act, and the provisions of the Resolution.

2. The Series 2019 Bonds have been duly authorized, executed and delivered by the City under the provisions of the Resolution.

3. The Series 2019 Bonds are legal, valid and binding limited obligations of the City and are secured by a lien on and are payable solely from the Net Revenues (as defined in the Resolution) derived from the operation of the System subject to the parity lien of the $3,500,000 (original principal amount) City of Gautier, Mississippi Promissory Note (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, securing the $3,500,000 (original principal amount) Mississippi Development Bank Special Obligation Bonds, Series 2013 (Gautier, Mississippi Combined Utility System Revenue Project), dated August 13, 2013, and the $4,000,000 (original principal amount) City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2018, dated June 1, 2018. The Series 2019 Bonds are not general obligations of the City and the full faith, credit and taxing power of the City are not being pledged to the payment of the Series 2019 Bonds or interest thereon.

4. Under the existing statutes, regulations, rulings and court decisions, subject to the assumption stated below, interest on the Series 2019 Bonds is excludable from gross income for federal income tax purposes. Furthermore, interest on the Series 2019 Bonds is not a specific preference item for purposes of the federal alternative minimum tax. We express no opinion regarding other federal tax consequences resulting from the ownership of, receipt or accrual of interest on, or disposition of the Series 2019 Bonds. In rendering the opinion contained in this paragraph 4, we have assumed continuing compliance with the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), that must be met after the issuance of the Series 2019 Bonds in order that interest on the Series 2019 Bonds not be includable in gross income for federal income tax purposes. The failure to meet such requirements may cause interest on the Series 2019 Bonds to be includable in gross income for federal income tax purposes retroactive to the date of issuance of the Series 2019 Bonds.

5. Under and pursuant to existing laws of the State, the Series 2019 Bonds and interest thereon are exempt from all income taxes imposed by the State.

The Governing Body, acting for and on behalf of the City, has covenanted in the Resolution (a) to comply with each requirement of the Code necessary to maintain the excludability of interest on the Series 2019 Bonds from gross income for federal income tax purposes, and in furtherance thereof, to comply with the Non-Arbitrage Certificate, or such other covenants as may, from time to time, be required to be complied with in order to maintain the excludability of interest on the Series 2019 Bonds from gross income for federal income tax purposes, (b) to not use or permit the use of any of the proceeds of the Series 2019 Bonds, or any other funds of the City, directly or indirectly, to acquire any securities, Series 2019 Bonds or other investment property, and (c) to not take or permit to be taken any other action or actions, which would cause any Series 2019 Bond to be an "arbitrage bond" as defined in Section 148 of the Code. Failure of the City to comply with such covenants could result in the interest on the Series 2019 Bonds being subject to federal income tax from the date of issue.

In rendering the opinion in paragraph 4 above, Bond Counsel has assumed the continuing compliance by the City with the tax covenants and representations in the Resolution and the representations in the Non-Arbitrage Certificate. These requirements relate to, *inter alia*, the use and investment of the gross proceeds of the Series 2019 Bonds, the use of any facility, equipment or improvement financed or refinanced directly or indirectly with the proceeds of the Series 2019 Bonds and rebate to the United States Treasury of specified arbitrage earnings, if any. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Series 2019 Bonds have resulted in a failure of the City to comply with its covenants. Failure of the City to comply with such covenants could result in the interest on the Series 2019 Bonds becoming subject to federal income tax from the date of issue.

Owners of the Series 2019 Bonds should consult their own tax advisors as to the applicability and effect on their federal income taxes of any other collateral federal income tax consequences.

It is understood that the rights of the owners of the Series 2019 Bonds and the enforceability of the Series 2019 Bonds and the Resolution may be subject to bankruptcy, insolvency, reorganization,

moratorium and other similar law affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable, and that the enforcement thereof may be subject to the exercise of judicial discretion in appropriate cases.

In this opinion letter issued in our capacity as Bond Counsel, we are opining only upon those matters set forth herein, and we are not passing upon the accuracy, adequacy or completeness of any statements made in connection with any offer or sale of the Series 2019 Bonds or upon any federal or state tax consequences arising from the receipt or accrual of interest on or the ownership or disposition of the Series 2019 Bonds, except those specifically addressed herein.

In rendering the foregoing opinions, we have assumed the accuracy and truthfulness of all public records and of all certificates, resolutions, documents and other proceedings examined by us that have been executed or certified by public officials acting within the scope of their official capacities and have not verified the accuracy or truthfulness thereof. We also have assumed the genuineness of the signatures appearing upon such public records, certifications, resolutions, documents and proceedings. In rendering this opinion, we have relied upon the opinion of Bordis & Danos, PLLC, Ocean Springs, Mississippi, counsel for the City, dated the date hereof, as to the due authorization and execution by the City of the Series 2019 Bonds and the Resolution.

This opinion letter is issued as of the date hereof and we assume no obligation to revise or supplement this opinion letter to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Respectfully submitted,

BUTLER SNOW LLP

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APPENDIX F

CONTINUING DISCLOSURE CERTIFICATE

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CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (this "Disclosure Certificate") is executed and delivered by the City of Gautier, Mississippi (the "City") in connection with the execution and delivery of $6,000,000 City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2019 (the "Bonds"). The Bonds are being executed and delivered pursuant to resolutions adopted by the Mayor and City Council (the "Governing Body") of the City on November 21, 2017, January 2, 2018, November 5, 2019 and December 3, 2019 (collectively, the "Resolution"). The Bonds are being issued to raise money for the purpose of (a) financing the cost of the improvement, repair, and extension of the City's combined waterworks, water supply, sewerage, and sewer disposal facilities (the "System"), (b) funding a debt service reserve fund for the Bonds, and (c) paying the costs of the sale and issuance of the Bonds . The City covenants and agrees as follows:

SECTION 1. Purpose of this Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the Registered Owners (defined below) and the Beneficial Owners (defined below) of the Bonds in order to assist the Participating Underwriter (defined below) in complying with the Rule (defined below).

SECTION 2. Definitions. In addition to the definitions set forth in the Resolution, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined herein, the following capitalized terms shall have the following meanings:

"Accompanying Information" shall mean any identifying information or other information then required to accompany the applicable filing pursuant to the Rule, currently including, without limitation, the 9 digit CUSIP numbers for the Bonds.

"**Beneficial Owner**" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bond (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bond for federal income tax purposes.

"Business Day" shall mean any day other than (a) a Saturday, (b) a Sunday, (c) any other day on which banking institutions in New York, New York, or the city in which the Paying Agent maintains its principal place of business, are authorized or required not to be open for the transaction of regular banking business or (d) any day on which the New York Stock Exchange is closed.

"City Annual Financial Information" shall mean the information summarized herein below under the heading "Annual Financial Information - City Undertaking."

"EMMA" shall mean the Electronic Municipal Market Access System found at http://emma.msrb.org which is the electronic format prescribed by the MSRB pursuant to the Rule.

"**Fiscal Year**" shall mean a period beginning on October 1 in any year and ending on September 30 of the following year or such other twelve-month period as may be adopted by the City in accordance with law.

"Independent Accountant" shall mean any firm of certified public accountants appointed by the City which is independent pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants or the State Auditor.

"**Listed Events**" shall mean any of the events listed in Section 5 of this Disclosure Certificate.

"MSRB" shall mean the Municipal Securities Rulemaking Board. The electronic filings with the MSRB shall be through EMMA.

"**Participating Underwriter**" shall mean the original purchaser of the Bonds required to comply with the Rule in connection with the offering of the Bonds.

"Paying Agent" shall mean the paying agent, transfer agent and registrar of the Bonds appointed by the City.

"**Registered Owner**" shall mean the person or persons in whose name any Bond is registered on the registration records of the City.

"**Repository**" shall mean the MSRB and each State Repository, if any.

"Required Electronic Format" shall mean the electronic format then prescribed by the SEC or the MSRB pursuant to the Rule.

"**Rule**" shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as in effect on the date of this Disclosure Certificate.

"**State**" shall mean the State of Mississippi.

"**State Repository**" shall mean any public or private repository or entity designated by the State as a State repository for the purposes of the Rule. As of the date of this Disclosure Certificate, there is no State Repository.

"Timely" as used herein with respect to filings required under the Rule shall have the meaning required under the Rule, which with respect to Listed Events currently means within ten (10) Business Days after the occurrence of the Listed Event.

SECTION 3. General. Nothing in this Disclosure Certificate shall prevent the City from disseminating any information in addition to that required by this Disclosure Certificate. If the City disseminates any such additional information, the City shall not have any obligation to update such information or include it in any further materials disseminated. All expenses and any other costs incurred by the City in complying with this Disclosure Certificate shall be paid by the City.

All filings with the MSRB under this Disclosure Certificate shall be made by electronically transmitting such filings through the EMMA Dataport at http://www.emma.msrb.org, as provided by the Rule.

SECTION 4. City Undertaking. The City hereby agrees for the benefit of the Registered Owners and the Beneficial Owners of the Bonds to provide, together with any Accompanying Information and in the Required Electronic Format:

(a) to each Repository, within twelve months after the end of each Fiscal Year of the City ending in or after September 30, 2020, but no later than September 30 of each year,

(1) the City Annual Financial Information relating to such Fiscal Year; or

(2) notice of the failure of the City to provide the City Annual Financial Information, or any portion thereof, in substantially the form attached hereto as Exhibit A; and

(b) (1) to each Repository, in a Timely manner, notice of any Listed Events; and

(2) to each Repository, in writing, in a Timely manner, notice of any event which, in the opinion of an authorized officer of the City had, or will have, a material effect on the financial condition or operations of the City.

SECTION 5. Listed Events. The City shall give or cause to be given notice of the occurrence of any of the following Listed Events with respect to the Bonds, together with any Accompanying Information and in Required Electronic Format, in a Timely manner not in excess of ten (10) business days after the occurrence thereof. All events mandated by the Rule are listed below; however, some may not apply to the Bonds.

(1) Principal and interest payment delinquencies.

(2) Non-payment related defaults, if material.

(3) Unscheduled draws on debt service reserves reflecting financial difficulties.

(4) Unscheduled draws on the credit enhancements reflecting financial difficulties.

(5) Substitution of credit or liquidity providers or their failure to perform.

(6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds.

(7) Modification to rights of bondholders, if material.

(8) Bond calls, if material, and tender offers.

(9) Defeasances.

(10) Release, substitution or sale of property securing repayment of the Bonds, if material.

(11) Rating changes.

(12) Bankruptcy, insolvency, receivership or similar event of the City[1].

(13) The consummation of a merger, consolidation, or acquisition involving the Bank or the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.

(14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(15) Incurrence of a financial obligation[2] of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Issuer, any of which affect security holders, if material.

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation[2] of the obligated person, any of which reflect financial difficulties.

SECTION 6. Annual Financial Information.

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[1] For the purposes of the event identified in subparagraph (b)(5)(i)(C)(12) of the Rule, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and official or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

[2] For purposes of the events identified in subparagraphs (b)(5)(i)(C)(15) and (16) of the Rule, the term "financial obligation" is defined to mean a (A) debt obligation; (B) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (C) a guarantee of (A) or (B). The term "financial obligation" does not include municipal securities as to which a final official statement has been otherwise provided to the MSRB consistent with the Rule. Numerous other terms contained in these subsections and/or in the definition of "financial obligation" are not defined in the Rule; SEC Release No. 34-83885 contains a discussion of the current SEC interpretation of those terms. For example, in the Release, the SEC provides guidance that the term "debt obligation" generally should be considered to include only lease arrangements that operate as vehicles to borrow money.

General. The contents, presentation and format of the City Annual Financial Information may be modified from time to time as determined in the judgment of the City to conform to changes in the Rule to disclosure principles or practices and legal requirements followed by or applicable to the City, provided that such modifications shall comply with the requirements of the Rule.

City Undertaking. City Annual Financial Information is defined to include:

(a) audited financial statements for such Fiscal Year if audited financial statements are then available, and, if unavailable, such audited financial statements if and when they become available; and

(b) updated financial and operating information relating to the City and the System set forth in Exhibit B which is similar to the operating and financial information of the System contained in the Official Statement.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues with respect to which the City is an "obligated person" (as defined by the Rule), which have been filed with each of the Repositories or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The City shall clearly identify each such other document so incorporated by reference.

SECTION 7. Financial Statements. The annual financial statements for the City for each Fiscal Year shall be prepared in accordance with generally accepted accounting principles in effect from time to time. Such financial statements shall be audited by an Independent Accountant.

SECTION 8. Remedies. This Disclosure Certificate is enforceable in accordance with its terms by any Registered Owner or Beneficial Owner of the Bonds either directly or as a third party beneficiary. Any Registered Owner or Beneficial Owner of the Bonds shall have the rights, for the equal benefit and protection of all Registered Owners and Beneficial Owners of the Bonds, by mandamus or other suit or proceeding at law or in equity, to enforce its rights against the City and any of the officers, agents and employees of the City, and to compel the City or any such officers, agents or employees to perform and carry out their duties under their respective undertakings; provided that such rights shall be limited to an action to compel specific enforcement of the obligations of the City hereunder and shall not include any rights to monetary damages.

SECTION 9. Amendments. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate and may waive any provision of this Disclosure Certificate, without the consent of the holders and beneficial owners of the Bonds, if such amendment or waiver does not, in and of itself, cause the undertakings herein (or action of any Participating Underwriter in reliance on the undertakings herein) to violate the Rule, but taking into account any subsequent change in or official interpretation of the Rule. The City will provide notice of such amendment or waiver to the MSRB.

SECTION 10. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Participating Underwriter and the holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 11. Termination of Reporting Obligation. The undertaking of the City hereunder shall terminate on the earliest of (i) the date of legal defeasance, prior redemption or payment in full of all of the Bonds; (ii) the date that the City shall no longer constitute an "obligated person" within the meaning of the Rule; or (iii) the date on which those portions of the Rule which require this written undertaking are held to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the Bonds..

SECTION 12. Governing Law. This Disclosure Certificate is shall be governed by the laws of the State.

IN WITNESS WHEREOF, the City has caused this Disclosure Certificate to be executed by a duly authorized officer of the City as of this ____ day of December, 2019.

(SEAL)

CITY OF GAUTIER, MISSISSIPPI

By_____
Mayor

ATTEST:

By_____
City Clerk

EXHIBIT A

NOTICE OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: City of Gautier, Mississippi

Name of Bond Issue: $6,000,000 City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2019

Date of Issuance: December ____, 2019

CUSIP Number: _____

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Certificate dated December ___, 2019. The Issuer anticipates that the Annual Report will be filed by _____.

Dated: _____

CITY OF GAUTIER, MISSISSIPPI

By:_____
Authorized Officer

EXHIBIT B

Name of Issuer: City of Gautier, Mississippi (the "City")

Name of Bond Issue: $6,000,000 City of Gautier, Mississippi Combined Utility System Revenue Bonds, Series 2019

Date of Issuance: December ____, 2019

CUSIP Number: _____

The following table sets forth the current utility rate schedule for water and sewer customers in the City for fiscal year 20___:

	Current Rates 2018
Gallons	
Water	
First 3,000 Gallons (Residential)	
Over 3,000 Gallons (per 1,000 Gallons) (Residential)	
First 3,000 Gallons (Commercial)	
Over 3,000 Gallons (per 1,000 Gallons) (Commercial)	
Sewer[2]	
First 3,000 Gallons (Residential)	
Over 3,000 Gallons (per 1,000 Gallons) (Residential)	
First 3,000 Gallons (Commercial)	
Over 3,000 Gallons (per 1,000 Gallons) (Commercial)	
Wastewater Treatment	
First 3,000 Gallons (Commercial & Residential)	
Over 3,000 Gallons (per 1,000 Gallons) (Commercial & Residential)	
Garbage	
Monthly Charge	
Minimum Average Bill	

[1] The City bills their citizens/customers separately for wastewater treatment. Fire protection is provided through the City's general fund budget.

[2] Sewer only monthly charge is $_____ for commercial and $_____ for residential.

The total number of current water customers within the System is approximately _____. The total number of gallons of water used annually is approximately _____ million gallons for calendar year 20_____.

The ten largest users of water per gallon/per month are listed below as of _____, 20____:

TEN LARGEST CUSTOMERS:	USAGE (gallons per month)

The capacity of the City's water system for fiscal year 20____ is as follows:

Current Water System	**Number of Gallons per day**
Capacity	
Peak daily load	
Average daily usage	

* Based on 24-hour capacity

The ten largest users of sewer per gallon/per month are listed below as of _____ 20____:

TEN LARGEST CUSTOMERS:	USAGE (gallons per month)

The capacity of the City's sewer system for fiscal year 20____ is as follows:

Current Water System	**Number of Gallons per day**
Capacity	
Peak daily load	
Average daily usage	

The current outstanding debt of the System is listed below:

Bonds Outstanding[1]	**Outstanding Principal**
Total Bonds Currently Outstanding	
SRF Loans	
Total SRF Loans Currently Outstanding	

The last five years historical debt service coverage is as follows:

	Fiscal Year 20___	**Fiscal Year 20___**	**Fiscal Year 20___**	**Fiscal Year 20___**	**Fiscal Year 20___**
Total Revenues					
Total Expenditures					
Available for Debt Service					
Existing Debt Service					
Balance					
Debt Ratio					

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Councilwoman Martin made the motion to approve the Docket of Claims, as presented, provided that all entries thereon are true, correct, properly entered and not fraudulent. Councilman George seconded the motion. The vote was carried unanimously.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 231-2019

WHEREAS, Miss. Code Ann. 21-39-9 requires governing authority to review all unpaid claims and determine if there is an obligation. An obligation exists if the related materials and supplies were properly contracted for and received by the municipality; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that Docket of Claims is hereby approved, provided that all entries thereon are true, correct, properly entered and not fraudulent.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by **Councilwoman Martin,** seconded by **Councilman George,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	CABLE ONE INC	200153	11/05/2019	10/15/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-699 / OCT 2019 SUBSTN: #107718827			10012019	10/08/2019		83.32	83.32
001	DELTA SANITATION OF MS LLC	200154	11/05/2019	10/15/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-698 / FRAZIER PORT O LET			0001051414	09/30/2019		70.00	35.00
	001-170-698 / FRAZIER PORT O LET			0001058237	10/20/2019			35.00
001	ADVANCE AUTO PARTS	200155	11/05/2019	10/15/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-638 / 128 OZ TURTLE CAR WASH (2)			7672	09/09/2019		245.14	12.86
	001-100-570 / MPOWER JUMPIT JMPSTR (2)			9772	09/17/2019			160.78
	001-100-570 / 600A LITH JUMP START			9867	09/19/2019			55.60
	001-161-638 / THERMOSTAT: ENG 2			0161	09/30/2019			15.90
001	CABLE ONE INC	200177	11/05/2019	10/16/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-699 / OCT 2019: #107718371			10012019	10/08/2019		205.12	205.12
001	CABLE ONE INC	200178	11/05/2019	10/16/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-699 / OCT CABLE BOX: #118476316			10012019	10/08/2019		62.38	62.38
001	MSC 7511	200183	11/05/2019	10/21/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-092-698 / FFO200-01 RENTAL FEE			INV3316624	10/08/2019		1,544.98	470.88
	001-092-698 / MPC80003SP USAGE:B/W			INV3316624	10/08/2019			388.35
	001-092-698 / MPC80003SP USAGE:COLOR			INV3316624	10/08/2019			324.48
	001-090-698 / C4502 USAGE:B/W			INV3316624	10/08/2019			81.28
	001-090-698 / C4502 USAGE:COLOR			INV3316624	10/08/2019			279.99
001	AT&T	200185	11/05/2019	10/21/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-092-605 / MONTHLY SERVICE			2284978000	10/14/2019		3,060.57	3,060.57
001	AT&T	200186	11/05/2019	10/21/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-092-605 / MONTHLY SERVICE			2284972172	10/14/2019		231.70	231.70
001	AT&T	200187	11/05/2019	10/21/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-092-605 / MONTHLY SERVICE			228497070	10/14/2019		139.79	139.79
001	AT&T	200188	11/05/2019	10/21/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-699 / NCIC TELECOM			2284970262	10/14/2019		32.42	32.42

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	GLOBALSTAR	200192	11/05/2019	10/22/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-092-605 / MONTHLY SERVICE			0010737615	10/16/2019		87.43	87.43
001	C SPIRE WIRELESS	200196	11/05/2019	10/22/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-605 / POLICE CELLS			0032680896	09/12/2019		531.77	531.77
001	SINGING RIVER ELECTRIC COOPERATIVE	200217	11/05/2019	10/28/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-631 / BROWN FD 95237002			10152019	10/23/2019		704.36	268.53
	001-161-631 / MARTIN BLUFF FD 58380001			10162019	10/24/2019			250.91
	001-201-629 / SIGNAL LIGHTS 17546			10162019	10/24/2019			31.68
	001-092-631 / CITY LIMIT SIGN 17546			10162019	10/24/2019			25.70
	001-100-631 / MBLUFF SUB STN 58521002			10162019	10/24/2019			127.54
001	CABLE ONE INC	200221	11/05/2019	10/28/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-698 / NOV 2019: CFD #122024086			10162019	10/23/2019		83.32	83.32
001	CABLE ONE INC	200222	11/05/2019	10/28/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-698 / NOV 2019: NFD #122024383			10162019	10/23/2019		83.32	83.32
001	CABLE ONE INC	200223	11/05/2019	10/28/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-698 / NOV 2019: SFD #122025091			10162019	10/23/2019		83.32	83.32
001	MSC 7511	200225	11/05/2019	10/28/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-699 / FNK100-01 RENTAL FEE			INV3334396	10/19/2019		186.19	160.26
	001-100-699 / MPC2504EX USAGE:COLOR			INV3334396	10/19/2019			25.93
001	CORE DISTINCTION GROUP LLC	200227	11/05/2019	10/29/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-021-688 / LODGING STUDY & PROFORMA			1111	10/23/2019		4,500.00	4,500.00
001	RETAIL STRATEGIES LLC	200228	11/05/2019	10/29/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-021-688 / CONSULTING SERVICES			402-2B	12/19/2019		8,750.00	8,750.00
001	TERRENCE DOSSETT	200229	11/05/2019	10/29/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-681 / PER DIEM ADV: FIRST			11182019	10/25/2019		72.00	72.00
001	FOSTERS A/C & HEATING INC	200230	11/05/2019	10/29/2019				
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-635 / ADMIN HALL: DRAIN CLOG			W1056448	10/02/2019		138.00	138.00

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	FOSTERS A/C & HEATING INC	200231	11/05/2019	10/29/2019			190.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-635 SR CENTER: KITCHEN UNIT			W1056751	10/10/2019			76.00
	001-170-635 SR CENTER: NORTH UNIT			W1056764	10/10/2019			114.00
001	ROBERT JOHNSON	200232	11/05/2019	10/29/2019			345.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-502 REFEREE 11.5 GAMES			2019	10/22/2019			345.00
001	CORY BIALOTA	200233	11/05/2019	10/29/2019			390.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-502 REFEREE 13 GAMES			2019	10/22/2019			390.00
001	LEVI BROWN	200234	11/05/2019	10/29/2019			90.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-502 REFEREE 3 GAMES			2019	10/22/2019			90.00
001	PATRICK EVANS	200235	11/05/2019	10/29/2019			360.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-502 REFEREE 12 GAMES			2019	10/22/2019			360.00
001	COREY CROCKETT	200236	11/05/2019	10/29/2019			315.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-502 REFEREE 10.5 GAMES			2019	10/22/2019			315.00
001	LAKECIA WAITES	200237	11/05/2019	10/29/2019			60.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-502 REFEREE 2 GAMES			2019	10/22/2019			60.00
001	FUELMAN	200247	11/05/2019	10/29/2019			2,629.38	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-090-525 UNL FUEL			NP57084284	10/14/2019			78.13
	001-100-525 UNL FUEL			NP57084284	10/14/2019			2,049.54
	001-161-525 UNL & DSL FUEL			NP57084284	10/14/2019			376.64
	001-170-525 UNL & DSL FUEL			NP57084284	10/14/2019			75.36
	001-205-525 DSL FUEL			NP57084284	10/14/2019			49.71
001	FUELMAN	200249	11/05/2019	10/29/2019			2,946.50	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-090-525 UNL FUEL			NP57107530	10/21/2019			48.68
	001-092-525 UNL FUEL			NP57107530	10/21/2019			92.88
	001-100-525 UNL FUEL			NP57107530	10/21/2019			2,144.01
	001-161-525 UNL & DSL FUEL			NP57107530	10/21/2019			391.79
	001-170-525 UNL & DSL FUEL			NP57107530	10/21/2019			223.83
	001-205-525 UNL FUEL			NP57107530	10/21/2019			45.31
001	FUELMAN	200252	11/05/2019	10/29/2019			3,137.51	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-092-525 UNL FUEL			NP57136774	10/28/2019			61.21
	001-100-525 UNL FUEL			NP57136774	10/28/2019			2,329.49

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	FUELMAN	200252	11/05/2019	10/29/2019			3,137.51	(CONTINUED)
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-525 UNL & DSL FUEL			NP57136774	10/28/2019			512.22
	001-170-525 UNL & DSL FUEL			NP57136774	10/28/2019			155.34
	001-205-525 UNL & DSL FUEL			NP57136774	10/28/2019			79.25
001	SHERRY FARABEE	200254	11/05/2019	10/29/2019			32.25	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-040-681 TRAVEL REIMB: MAGPPA CONF			10232019	10/29/2019			32.25
001	CINDY RUSSELL	200255	11/05/2019	10/29/2019			142.78	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-040-681 TRAVEL REIMB: CLERKS TRNG			10252019	10/29/2019			63.90
	001-040-681 MILEAGE REIMB: 136 MILES			10252019	10/29/2019			78.88
001	PITNEY BOWES PURCHASE POWER	200256	11/05/2019	10/29/2019			1,220.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-092-607 POSTAGE METER			0434-6213	10/20/2019			1,220.00
001	SINGING RIVER ELECTRIC COOPERATIVE	200273	11/05/2019	10/30/2019			72.26	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-631 SRM BOX 8 104463002			10172019	10/28/2019			11.75
	001-170-631 SRM BOX 8 104461002			10172019	10/28/2019			11.75
	001-170-631 SRM ELEC BOX 104312002			10172019	10/28/2019			48.76
001	SINGING RIVER ELECTRIC COOPERATIVE	200274	11/05/2019	10/30/2019			112.99	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-170-631 SPORTS PAVILION 66582005			10182019	10/28/2019			89.49
	001-170-631 ROUNDABOUT 102311002			10182019	10/28/2019			23.50
001	HARWELLS AC INSTALLATION AND REPAIR	200275	11/05/2019	10/30/2019			3,000.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-635 EMERGENCY AC UNIT INSTL: SFD			001-2019	10/28/2019			3,000.00
001	SINGING RIVER ELECTRIC COOPERATIVE	200276	11/05/2019	10/30/2019			899.50	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-631 SOUTH FD 76008001			10192019	10/29/2019			273.28
	001-170-631 BACOT PARK 10137			10192019	10/29/2019			479.96
	001-201-629 SIGNAL LIGHTS 10138			10192019	10/29/2019			122.76
	001-170-631 BACOT SPLASHPAD 103751001			10192019	10/29/2019			23.50
001	SINGING RIVER ELECTRIC COOPERATIVE	200278	11/05/2019	10/30/2019			977.75	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-201-633 DOLPHIN ST 94987002			10182019	10/28/2019			84.98
	001-201-633 DOLPHIN ST 94988002			10182019	10/28/2019			79.94
	001-201-633 DOLPHIN ST 94989002			10182019	10/28/2019			78.90
	001-201-633 DOLPHIN ST 94990002			10182019	10/28/2019			499.97
	001-201-633 WM PAYNE 100244001			10182019	10/28/2019			63.86
	001-201-633 WM PAYNE 100245001			10182019	10/28/2019			170.10

Docket of Claims
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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	SINGING RIVER ELECTRIC COOPERATIVE	200280	11/05/2019	10/30/2019			2,367.72	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-631	POLICE STATION 66298004	10182019	10/28/2019		1,594.71
001-201-629	SIGNAL LIGHT 89113001	10182019	10/28/2019		57.58
001-170-631	CITY PARK RESTRMS 89912001	10182019	10/28/2019		311.95
001-201-633	STREET LIGHTS 90345002	10182019	10/28/2019		147.62
001-092-631	RECORDS BLDG 90790001	10182019	10/28/2019		217.50
001-170-631	FRAZIER RESTRMS 98546001	10182019	10/28/2019		38.36

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	ALABAMA MEDIA GROUP	200281	11/05/2019	10/30/2019			17.40	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-090-615	PUBLIC NOTICE: GPC #19-19-SE	0009368287	10/20/2019	200066	17.40

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	GALLS LLC	200282	11/05/2019	10/30/2019			79.33	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-559	ACC SINGLE HANDCUFF CASE (2)	BC0955181	10/16/2019	191144	45.00
001-100-559	PATROL TEK LINER BELT	BC0955181	10/16/2019	191144	17.50
001-100-559	COMPACT LIGHT HOLDER	BC0955181	10/16/2019	191144	15.00
001-100-559	SHIPPING	BC0955181	10/16/2019	191144	1.83

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	CAN'T MISS EMBROIDERY	200283	11/05/2019	10/30/2019			128.94	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-100-535	NAVY POLO W/NAME-CAPT BARS (3)	23463	10/21/2019	191244	51.00
001-100-535	NAVY POLO W/BADGE-ACO NAME(3)	23463	10/21/2019	191244	77.94

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	REYNOLDS WHOLESALE CO	200284	11/05/2019	10/30/2019			1,255.84	

Account Number	Description	Invoice #	Date	P.O.	Amount
001-170-559	CS 10/100 PF LATEX GLOVES (3)	64726	10/10/2019	200051	178.50
001-170-559	CS 100 38X58 BLK CAN LINER (6)	64726	10/10/2019	200051	197.70
001-170-559	CS 100 33X39 BLK CAN LINER (2)	64726	10/10/2019	200051	43.90
001-170-559	CS 500 24X32 WHT CAN LINER	64726	10/10/2019	200051	22.95
001-170-559	CS 6/1GAL VB BLEACH (3)	64726	10/10/2019	200051	41.85
001-170-559	CS 4/1GAL NABC CLEANER (2)	64726	10/10/2019	200051	92.00
001-170-559	CS 12/8" BROWN TOWELS (3)	64726	10/10/2019	200051	71.85
001-170-559	CS VB TISSUE	64726	10/10/2019	200051	46.95
001-170-559	CS BMF TOWELS	64726	10/10/2019	200051	19.95
001-170-559	CS JUMBO JR TISSUE (3)	64726	10/10/2019	200051	76.50
001-170-559	TRIGGER SPRAY BOTTLE (6)	64726	10/10/2019	200051	8.94
001-170-559	1 GAL WINDEX	64726	10/10/2019	200051	12.95
001-161-559	TOOTSIE ROLL 360/CT (20)	64898	10/24/2019	200091	110.00
001-161-559	GUMMI CANDY 60/CT (8)	64898	10/24/2019	200091	55.60
001-161-559	MINI MARS CANDY 240/CT (5)	64898	10/24/2019	200091	79.75
001-170-513	GUMMI CANDY 60/CT (5)	64838	10/17/2019	200080	34.75
001-170-513	TOOTSIE ROLL 360/CT (3)	64838	10/17/2019	200080	16.50
001-170-513	STARBUST SKITTLES 255/CT (2)	64838	10/17/2019	200080	31.90
001-170-513	4.75 LBS PLAYTIME CANDY (2)	64838	10/17/2019	200080	27.90
001-170-511	CS 1000 STYRO FOAM CUPS	64837	10/17/2019	200081	49.50
001-170-511	CS 1000 STYRO FOAM PLATES	64837	10/17/2019	200081	20.00
001-170-511	JR TISSUE HOLDER	64837	10/17/2019	200081	15.90

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001	ACTION PRINTING CENTER INC	200285	11/05/2019	10/30/2019			474.55	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-045-500 #9 WINDOW SECURITY ENV (5000)			97957	10/10/2019	200028		474.55
001	MURRAY'S NURSERY	200286	11/05/2019	10/30/2019			145.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-205-560 30 GAL LEYLAND CYPRESS TREE			4629	10/28/2019	200108		145.00
001	GULF COAST BUSINESS SUPPLY CO	200288	11/05/2019	10/30/2019			211.24	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-510 CT BMF TOWELS 250/PK (4)			195789	10/09/2019	200048		76.04
	001-161-510 COMET CLENSER (12)			195789	10/09/2019	200048		20.64
	001-161-510 CS 100 CAN LINER 43X47 (4)			195789	10/09/2019	200048		95.80
	001-161-510 FURNITURE POLISH (4)			195789	10/09/2019	200048		9.40
	001-161-510 13 OZ LYSOL DISINFECTANT (4)			195789	10/09/2019	200048		9.36
001	GULF SALES AND SUPPLY INC	200289	11/05/2019	10/30/2019			306.24	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-559 AAA BATTERY 8PK/96BX (192)			491485	10/10/2019	200024		138.24
	001-100-559 AA BATTERY 8PK/96BX (192			491485	10/10/2019	200024		124.80
	001-100-559 C BATTERY 6PK/72BX (36)			491485	10/10/2019	200024		19.80
	001-100-559 EVER 3V LITH BATTERY (18)			491485	10/10/2019	200024		23.40
001	MS FIRE INVESTIGATORS ASSN	200290	11/05/2019	10/30/2019			35.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-682 MFIA ANNUAL DUES: LATCH, J			200100	10/28/2019	200100		35.00
001	COOPER FAMILY MED CENTER	200291	11/05/2019	10/30/2019			160.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-604 PHYSICAL ACADEMY: SLOVER			38939	10/30/2019	191205		100.00
	001-100-604 EKG ACADEMY: SLOVER			38939	10/30/2019			60.00
001	MS TROPHY LLC	200292	11/05/2019	10/30/2019			60.40	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-559 NAME/SERVING BARS (2)			12757	10/15/2019	191227		56.40
	001-100-559 SHIPPING			12757	10/15/2019			4.00
001	GOODYEAR AUTO CENTER	200294	11/05/2019	10/30/2019			1,012.36	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-090-638 P225/70R15 100S SR-A OWL			214011	10/12/2019	200050		370.28
	001-090-638 TIRES INSTL PKG: LABOR			214031	10/12/2019	200062		52.00
	001-090-638 WASTE TIRE FEE: DUSTIN TRUCK			214011	10/12/2019			4.00
	001-100-638 245/55R18 1034 EAGLE RS-A			214131	10/16/2019			518.04
	001-100-638 MOUNT & BALANCE			214131	10/16/2019			64.04
	001-100-638 WASTE TIRE FEE: U #56			214131	10/16/2019			4.00
001	SUN HERALD	200295	11/05/2019	10/30/2019			236.64	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-040-615 BID:SSP WELCOME CTR P III			0004407210	10/07/2019	200027		236.64

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001	SECURE NETWORKS LLC	200297	11/05/2019	10/30/2019			499.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-639 / 1500VA SINEWAVE UPS SYSTEM			3949	10/14/2019	200040		499.00
001	STAPLES BUSINESS ADVANTAGE DEPT ATL	200298	11/05/2019	10/30/2019			1,861.80	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-094-500 / DURACELL AA BATTERY PK			3427543379	10/08/2019	200036		8.86
	001-094-500 / DURACELL AAA BATTERY PK			3427543379	10/08/2019	200036		9.56
	001-094-500 / HANGING FILE FOLDER 25/BX			3427543379	10/08/2019	200036		12.90
	001-094-500 / 1" 3 RING VIEW BINDER (2)			3427543379	10/08/2019	200036		6.38
	001-094-559 / POCKET WALL LEGAL			3427543380	10/08/2019	200036		17.49
	001-094-500 / HANGING FILE FOLDER BOX LTR			3427613638	10/09/2019	200036		25.96
	001-010-500 / 8.5X11 CS COPY PAPER (6)			3427775327	10/11/2019	200058		221.52
	001-010-500 / PK POST-IT NOTES			3427775327	10/11/2019	200058		10.67
	001-010-500 / HP LASER JET 64X TONER 2PK			3427775327	10/11/2019	200058		478.32
	001-010-500 / PILOT G2 PEN GEL DZ			3427775327	10/11/2019	200058		10.99
	001-010-500 / 24X36 AAG YR WALL CALENDAR (2)			3427775327	10/11/2019	200058		28.72
	001-010-500 / LTR EXP FILE POCKETS 10/BX			3427775327	10/11/2019	200058		9.31
	001-010-500 / 819316 RECEIVED STAMP			3427775327	10/11/2019	200058		18.49
	001-040-500 / PACKING TAPE W/GUN			3427775323	10/11/2019	200054		11.59
	001-040-500 / 25000CT STANDARD STAPLES			3427775323	10/11/2019	200054		2.99
	001-040-500 / STAPLER BOSTITCH ELECTRIC (2)			3427775323	10/11/2019	200054		86.94
	001-040-500 / CLASP 6X9 ENVELOPES BX			3427775323	10/11/2019	200054		5.72
	001-040-500 / CLASP 9X12 ENVELOPES BX			3427775323	10/11/2019	200054		6.63
	001-040-500 / PRECISE PILOT PENS DZ			3427775323	10/11/2019	200054		18.84
	001-040-500 / 12/PK INVISIBLE TAPE			3427775323	10/11/2019	200054		6.44
	001-040-500 / 19X24 RUBBER DESK PAD			3427775323	10/11/2019	200054		23.45
	001-040-500 / 1000CT PAPER CLIPS SMALL			3427775323	10/11/2019	200054		1.57
	001-021-500 / HIGH CAPACITY STAPLER			3427775323	10/11/2019	200054		27.22
	001-045-500 / EXPAND FILE POCKET 10PK			3427775323	10/11/2019	200054		25.80
	001-022-500 / SHARPIE PERMANENT MARKER 5PK			3427775323	10/11/2019	200054		6.79
	001-022-500 / 1000CT PAPER CLIPS SMALL			3427775323	10/11/2019	200054		1.57
	001-022-500 / 2PK DYMO LABEL MAKER BX (2)			3427775323	10/11/2019	200054		20.10
	001-045-500 / LEGAL ORANGE FILE FOLDER (4)			3427775324	10/11/2019	200054		204.76
	001-022-500 / EXPAND WALLET W/ELASTIC TIE			3427775324	10/11/2019	200054		10.87
	001-045-500 / ENVELOPE MOISTENER			3427775325	10/11/2019	200054		1.23
	001-022-500 / 059202 FOLDER ORA LEGAL BX			3427775326	10/11/2019	200054		45.79
	001-100-500 / MANILA FILE FOLDERS LTR 100PK			3428260586	10/17/2019	200079		4.27
	001-100-500 / POST-IT NOTES 3X3 (2)			3428260586	10/17/2019	200079		63.28
	001-100-500 / 6X9 CLASP ENVELOPES (2)			3428260586	10/17/2019	200079		40.94
	001-100-500 / AVERY LABELS FILE FOLDER			3428260586	10/17/2019	200079		2.77
	001-100-500 / NOTEPAD 8.5X11.75 LTR 12PK (2)			3428260586	10/17/2019	200079		13.52
	001-100-500 / BROTHER DR630 BLACK DRUM CART			3428260586	10/17/2019	200079		85.99
	001-100-500 / BLACK INK PENS DZ			3428260586	10/17/2019	200079		14.99
	001-100-500 / BROTHER TN660 BLACK TONER (3)			3428260586	10/17/2019	200079		161.97
	001-100-500 / STAPLES TAPE 12PK			3428260586	10/17/2019	200079		12.88
	001-100-500 / POST-IT 3X3 POP UP (3)			3428260586	10/17/2019	200079		37.35
	001-100-500 / RECEIPT BOOKS 3-PART (4)			3428260586	10/17/2019	200079		32.40
	001-100-500 / 100PK SLEEVE CD/DVD (3)			3428260587	10/17/2019	200079		23.97
	001-040-500 / 36PK AA BATT			3422600052	08/20/2019			18.19

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001	STAPLES BUSINESS ADVANTAGE DEPT ATL	200298	11/05/2019	10/30/2019			1,861.80	(CONTINUED)
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-040-500 / CDT RTN: 36PK AA BATT			3424601194	09/07/2019			-18.19
001	BARNEYS POLICE AND HUNTING SUPPLIES	200300	11/05/2019	10/30/2019			608.72	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-535 / PROF5252 PANTS LTWT S30 (3)			32214	10/01/2019	200025		104.97
	001-100-535 / PROF5252 PANTS LTWT S38 (3)			32214	10/01/2019	200025		104.97
	001-100-559 / SAF87 DUTY BELT (2)			31874	10/15/2019	191139		135.98
	001-100-559 / SAF99 INNER BELT REVERSIBLE(2)			31874	10/15/2019	191139		71.98
	001-100-559 / SAF33 GLOVE POUCH			31874	10/15/2019	191139		18.99
	001-100-559 / PEPPER SPRAY (3)			31874	10/15/2019	191139		29.97
	001-100-559 / COLLAR BRASS CAPTAIN (3)			31874	10/15/2019	191139		53.94
	001-100-559 / COLLAR BRASS LT (3)			31874	10/15/2019	191139		53.94
	001-100-559 / HOLSTER TACTICAL (2)			31874	10/15/2019	191139		33.98
001	EMERGENCY EQUIPMENT PROFESSIONALS INC	200302	11/05/2019	10/30/2019			2,245.50	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-638 / DEF HEADER ASSY: ENG 5			446397	10/23/2019	191167		1,143.75
	001-161-638 / SHOP SUPPLIES			446397	10/23/2019	191167		46.97
	001-161-638 / LABOR			446397	10/23/2019	191167		977.50
	001-161-638 / DEF, BLUE 2.5			446397	10/23/2019	191167		27.28
	001-161-638 / FREIGHT			446397	10/23/2019			50.00
001	AFFORDABLE PAINT & BODY	200303	11/05/2019	10/30/2019			245.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-638 / INSTL DECAL : U #19686			625	10/22/2019	200074		245.00
001	GRAFIX SHOPPE	200304	11/05/2019	10/30/2019			488.55	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-638 / ULT 2004 REFLECT GRAPHIC:U #11			130291	10/08/2019	200010		463.00
	001-100-638 / SHIPPING			130291	10/08/2019	200010		25.55
001	USCUTTER INC	200306	11/05/2019	10/30/2019			67.94	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-559 / LAYFLAT CLASSIC TRANSFER TAPE			1417406	10/18/2019	200063		31.99
	001-100-559 / INTERMEDIATE VINYL ROLL (4)			1417406	10/18/2019	200063		23.96
	001-100-559 / SHIPPING			1417406	10/18/2019	200063		11.99
001	AXON ENTERPRISE INC	200307	11/05/2019	10/30/2019			12,443.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-799 / YELLOW X26P CEW HANDLE (4)			SI-1615780	10/04/2019	200034		4,260.00
	001-100-799 / RIGHT HAND HOLSTER X26P (4)			SI-1615780	10/04/2019	200034		256.00
	001-100-799 / SP CARTRIDGE BATT PK, X26P (4)			SI-1615780	10/04/2019	200034		304.00
	001-100-559 / 21FT NON-CONDUCT CARTRIDGE(50)			SI-1615787	10/04/2019	200033		1,400.00
	001-100-559 / 25FT STANDARD CARTRIDGE (25)			SI-1615787	10/04/2019	200033		825.00
	001-100-559 / KIT DATAPORT DOWNLOAD USB,X26P			SI-1615787	10/04/2019	200033		200.00
	001-100-559 / SP CARTRIDGE BATT PK, X26 (3)			SI-1615787	10/04/2019	200033		150.00
	001-100-559 / SP CARTRIDGE BATT PK, X26P			SI-1615787	10/04/2019	200033		228.00
	001-100-597 / YELLOW X26P CEW HANDLE (4)			SI-1616982	10/14/2019	200059		4,260.00
	001-100-597 / RIGHT HAND HOLSTER X26P (4)			SI-1616982	10/14/2019	200059		256.00
	001-100-597 / SP CARTRIDGE BATT PK, X26P (4)			SI-1616982	10/14/2019	200059		304.00

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001	CHANCELLOR INC	200309	11/05/2019	10/30/2019			263.94	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-201-637 / XTR STREET LIGHT (6): DOLPHIN			0301854021	10/21/2019	200055		263.94
001	HARWELLS AC INSTALLATION AND REPAIR	200310	11/05/2019	10/30/2019			3,014.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-635 / INSTL AC UNIT: CFD			002-2019	10/28/2019	200068		3,014.00
001	ECONOMY BOOTS SALES & SERVICE	200311	11/05/2019	10/30/2019			183.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-535 / CHIPPEWA BOOTS: TILLMAN			18281	10/11/2019	200064		183.00
001	NRA-LED	200313	11/05/2019	10/30/2019			645.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-100-681 / NRA-LED REG FEE:KILLINGSWORTH			RA-374-V	10/28/2019	200039		645.00
001	AUDIOWAVE INC	200314	11/05/2019	10/30/2019			40.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-090-638 / REMV OLD TINT-STICKER:VIN 6160			A 51072	10/15/2019	200067		40.00
001	STEINER SAW & MOWER	200315	11/05/2019	10/30/2019			81.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-161-639 / FAN PULLY KIT			962229	10/14/2019	200065		45.00
	001-161-639 / FAN PULLEY			962229	10/14/2019	200065		12.00
	001-161-639 / PUMP KIT: FD MOWER			962229	10/14/2019	200065		24.00
001	SINGING RIVER ELECTRIC COOPERATIVE	200317	11/05/2019	10/30/2019			8,785.02	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	001-201-633 / STREET LIGHTING 10054			10182019	10/28/2019			5,863.66
	001-201-629 / SIGNAL LIGHTS 10054			10182019	10/28/2019			664.72
	001-092-631 / CITY HALL 10054			10182019	10/28/2019			935.11
	001-170-631 / FRAZIER PARK 10054			10182019	10/28/2019			52.42
	001-170-631 / SENIOR BLDG 10054			10182019	10/28/2019			333.91
	001-161-631 / CENTRAL FD 10054			10182019	10/28/2019			429.20
	001-170-631 / CITY PARK 10054			10182019	10/28/2019			140.19
	001-092-631 / PUBLIC WORKS 10054			10182019	10/28/2019			340.51
	001-092-631 / HWY 90 SIGN 10054			10182019	10/28/2019			25.30

FUND TOTAL 1 Claims to Checks 68 Total 75,778.18 Manual Held Total 75,778.18

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157	FOREMOST PROMOTIONS	200305	11/05/2019	10/30/2019			2,409.60	

Account Number	Description	Invoice #	Date	P.O.	Amount
157-100-799	CERAMIC MUG C-HANDLE (72)	488973	10/17/2019	200032	393.12
157-100-799	JR OFCR BADGE STICK ON (4000)	488973	10/17/2019	200032	800.00
157-100-799	PERFORATION	488973	10/17/2019	200032	30.00
157-100-799	KEY CHAIN STRESS RELIEVER(500)	488973	10/17/2019	200032	945.00
157-100-799	RUN CHARGE (500)	488973	10/17/2019	200032	125.00
157-100-799	SHIPPING	488973	10/17/2019	200032	116.48

FUND TOTAL 157 Claims to Checks 1 Total 2,409.60 Manual Held Total 2,409.60

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Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
171	MPI GO BOND S2019 CONSTRUCTION FUND	200258	11/05/2019	10/29/2019			49,426.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
171-000-104	TR TIDELANDS REIM: FUND 308	REQ 4	10/22/2019		11,100.00
171-000-104	TR TIDELANDS REIM: FUND 305	REQ 4	10/22/2019		20,551.00
171-000-104	TR TIDELANDS REIM: FUND 306	REQ 13	10/22/2019		17,775.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
171	MURRAY'S NURSERY	200287	11/05/2019	10/30/2019			2,055.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
171-300-720	VITEX 15 GAL (20)	4645	10/29/2019	200101	1,000.00
171-300-720	ELAEAGNUS 7 GAL (40)	4645	10/29/2019	200101	1,000.00
171-300-720	DELIVERY CHARGE	4645	10/29/2019	200101	55.00

FUND TOTAL 171 Claims to Checks 2 Total 51,481.00 Manual Held Total 51,481.00

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
172	JACKSON-GEORGE REGIONAL LIBRARY	200198	11/05/2019	10/23/2019			1,557.03	_____
	Account Number 172-350-650	Description LIBRARY SUPPORT		Invoice # OCT 2019	Date 10/16/2019	P.O.	Amount	1,557.03

FUND TOTAL 172 Claims to Checks 1 Total 1,557.03 Manual Held Total 1,557.03

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
176	AD2 INC	200179	11/05/2019	10/16/2019			501.50	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-699 HOSTING FEE SEPT 2019			3528	10/15/2019			36.50
	176-170-699 SHOPPING CART FEE SEPT 2019			3528	10/15/2019			115.00
	176-170-699 WEB SITE MAINT: 8/15 - 9/4/19			3528	10/15/2019			350.00
176	AT&T	200189	11/05/2019	10/21/2019			52.05	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-605 OCT 2019: SSP INTERNET			285615432	10/11/2019			52.05
176	AT&T	200190	11/05/2019	10/21/2019			265.15	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-605 MONTHLY SERVICE			2284972244	10/14/2019			265.15
176	FUELMAN	200250	11/05/2019	10/29/2019			30.88	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-525 UNL FUEL			NP57107530	10/21/2019			30.88
176	AD2 INC	200257	11/05/2019	10/29/2019			1,287.50	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-704 WEB SITE REDESIGN			3532	10/15/2019			1,287.50
176	MINGLEDORFFS INC	200301	11/05/2019	10/30/2019			146.90	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-635 RUN CAPACITOR			8714274-00	10/16/2019	200078		2.82
	176-170-635 FAN BLADE PULLER			8714274-00	10/16/2019	200078		86.41
	176-170-635 FAN MOTOR 208-230V			8714274-00	10/16/2019	200078		57.67
176	SINGING RIVER ELECTRIC COOPERATIVE	200318	11/05/2019	10/30/2019			1,817.43	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	176-170-631 PARK FACILITIES 76854002			10192019	10/29/2019			1,769.57
	176-170-631 HOUSE 76855002			10212019	10/29/2019			47.86

FUND TOTAL 176 Claims to Checks 7 Total 4,101.41 Manual Held Total 4,101.41

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
303	MICHAEL BAKER INTERNATIONAL	200259	11/05/2019	10/29/2019			2,925.92	

Account Number	Description	Invoice #	Date	P.O.	Amount
303-301-603	DESIGN SERVICES	1063165	10/15/2019		2,925.92

FUND TOTAL 303 Claims to Checks 1 Total 2,925.92 Manual Held Total 2,925.92

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
351	MAGNOLIA CONSTRUCTION CO LLC	200260	11/05/2019	10/29/2019			74,923.74	_____
	Account Number 351-726-768	Description CONSTRUCTION 73.33%		Invoice # 4	Date 10/22/2019	P.O.	Amount	74,923.74

FUND TOTAL 351 Claims to Checks 1 Total 74,923.74 Manual Held Total 74,923.74

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
355	WAGGONER ENGINEERING INC	200261	11/05/2019	10/29/2019			54,400.00	
	Account Number 355-723-762	Description DESIGN: WTR SUPPLY & TRMT		Invoice # 36229	Date 10/07/2019	P.O.	Amount	54,400.00

FUND TOTAL 355 Claims to Checks 1 Total 54,400.00 Manual Held Total 54,400.00

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
400	IRBY'S ANSWERING SERVICE	200180	11/05/2019	10/16/2019			414.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-698 BASE RATE: 10/2 - 10/29/19			277-100219	10/02/2019			414.00
400	MSC 7511	200184	11/05/2019	10/21/2019			166.49	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-698 FGYJ00-01 RENTAL FEE			INV3317566	10/09/2019			166.49
400	AT&T	200191	11/05/2019	10/21/2019			63.20	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-605 MONTHLY SERVICE			2284972276	10/06/2019			63.20
400	AT&T	200193	11/05/2019	10/22/2019			205.42	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-605 MONTHLY SERVICE			2284975234	10/14/2019			205.42
400	CITY OF GAUTIER	200197	11/05/2019	10/23/2019			43,427.11	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-680-821 ST LNS #3 90/57 SWR			10092019	10/09/2019			7,877.45
	400-680-822 ST LNS #4 90/57 WTR			10092019	10/09/2019			10,948.67
	400-680-822 ST LNS #4 90/57 SWR			10092019	10/09/2019			9,019.22
	400-680-823 ST LNS #5 ALLEN RD			10092019	10/09/2019			2,149.95
	400-680-824 ST LNS #6 OLD SPAN TR			10092019	10/09/2019			3,765.83
	400-680-825 ST LNS #7 OLD SPAN TR			10092019	10/09/2019			9,665.99
400	SINGING RIVER ELECTRIC COOPERATIVE	200218	11/05/2019	10/28/2019			2,337.37	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-631 LIFT STATIONS 20649			10152019	10/23/2019			665.89
	400-651-631 LIFT STATIONS 28779			10152019	10/23/2019			92.09
	400-651-631 SCHOONER WELL 20688			10112019	10/21/2019			1,362.25
	400-651-631 LIFT STATIONS 20688			10112019	10/21/2019			217.14
400	CABLE ONE INC	200224	11/05/2019	10/28/2019			61.16	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-698 NOV 2019: #107663106			10162019	10/23/2019			61.16
400	SINGING RIVER ELECTRIC COOPERATIVE	200226	11/05/2019	10/28/2019			5,272.81	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-631 LIFT STNS 89627001			10162019	10/24/2019			64.26
	400-651-631 LIFT STNS 89702001			10162019	10/24/2019			25.59
	400-651-631 LIFT STNS 17881			10162019	10/24/2019			2,288.63
	400-651-631 WATER WELLS 17881			10162019	10/24/2019			2,894.33
400	FUELMAN	200248	11/05/2019	10/29/2019			133.65	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-525 UNL FUEL			NP57084284	10/14/2019			133.65

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
400	FUELMAN	200251	11/05/2019	10/29/2019			92.26	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-525 / UNL FUEL			NP57107530	10/21/2019			92.26
400	FUELMAN	200253	11/05/2019	10/29/2019			145.07	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-525 / UNL FUEL			NP57136774	10/28/2019			145.07
400	2018 BOND DEBT SERVICE FUND	200262	11/05/2019	10/29/2019			25,000.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-900-950 / NOV 2019: 2018 BOND DS			11012019	11/01/2019			25,000.00
400	MISSION COMMUNICATIONS LLC	200277	11/05/2019	10/30/2019			3,474.00	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-698 / RENEWAL: DOLPHIN LS			1034087	10/04/2019			347.40
	400-651-698 / RENEWAL: HOLIDAY LS			1034087	10/04/2019			347.40
	400-651-698 / RENEWAL: CAMPBELL LS			1034087	10/04/2019			347.40
	400-651-698 / RENEWAL: SEACLIFF LS			1034087	10/04/2019			347.40
	400-651-698 / RENEWAL: HWY 90 NELSON LS			1034087	10/04/2019			347.40
	400-651-698 / RENEWAL: LAKEWOOD WEST			1034087	10/04/2019			347.40
	400-651-698 / RENEWAL: GUILLOTTEVILLE			1034087	10/04/2019			347.40
	400-651-698 / RENEWAL: HOYT			1034087	10/04/2019			347.40
	400-651-698 / RENEWAL: BARRACUDA			1034087	10/04/2019			347.40
	400-651-698 / RENEWAL: FRENCHMAN			1034087	10/04/2019			347.40
400	ARISTA INFORMATION SYSTEMS INC	200279	11/05/2019	10/30/2019			2,226.55	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-650-698 / SEP 2019 STATEMENTS			28414	10/14/2019			1,126.55
	400-650-698 / SEP 2019 POSTAGE			1425201910	10/14/2019			1,100.00
400	SOUTHERN PIPE & SUPPLY	200293	11/05/2019	10/30/2019			3,444.08	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-581 / WATER PLUG 5 GAL			3501920-00	10/14/2019	200013		25.00
	400-651-583 / 1" CCXCTS PJ BALLCORP (12)			3501920-00	10/14/2019	200013		775.08
	400-651-583 / 4NL 1 MIPXCTS CORP STOP (12)			3501920-00	10/14/2019	200013		549.60
	400-651-581 / 3NL 3/4 CCXCTS BALL CORP (12)			3501920-00	10/14/2019	200013		589.44
	400-651-581 / 3NL 3/4 MIPXCTS CORP STOP (12)			3501920-00	10/14/2019	200013		475.56
	400-651-581 / 3/4 CTS PJX1 CTS PJ COUP (18)			3501920-00	10/14/2019	200013		396.00
	400-651-581 / 2 PVC S40 BE PIPE (20FT)			3501920-00	10/14/2019	200013		12.00
	400-651-581 / 3/4 WATER METER COUPLING (24)			3519104-00	10/16/2019	200029		146.40
	400-651-583 / 1" RAMNECK (5)			3519104-00	10/16/2019	200029		475.00
400	SOUTHERN WATERWORKS SUPPLY INC	200296	11/05/2019	10/30/2019			1,378.95	
	Account Number / Description			Invoice #	Date	P.O.	Amount	
	400-651-583 / 4" SDR II IPS HDPE PIPE (160)			81974	10/09/2019	200041		703.36
	400-651-583 / 2" KNOCK ON COUPLING (5)			81973	10/09/2019	200015		84.65
	400-651-583 / 2" KNOCK ON COUPLING (7)			82003	10/14/2019	200015		118.50
	400-651-583 / 2" SCH 40 WYE (6)			82003	10/14/2019	200015		126.42
	400-651-583 / 6X12-1/2 COLLAR LEAK CLAMP(2)			82003	10/14/2019	200015		320.58
	400-651-583 / 2" SCH 40 STREET 22-1/2 (6)			82118	10/24/2019	200015		25.44

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
400	STAPLES BUSINESS ADVANTAGE DEPT ATL	200299	11/05/2019	10/30/2019			366.38	

Account Number	Description	Invoice #	Date	P.O.	Amount
400-650-500	HP 305A BLACK TONER CARTRIDGE	3426659680	10/01/2019	191243	71.66
400-650-500	HP 950XL HYBLK/951 CMY 4PK	3426659680	10/01/2019	191243	106.01
400-650-500	HP 952XL/952 HYBLK/STDCLR 4PK	3426659680	10/01/2019	191243	108.96
400-650-500	EPSON 252 HY BLK/STD CMY 4PK	3426659680	10/01/2019	191243	67.59
400-650-500	AVERY LASER LABEL PK	3426659680	10/01/2019	191243	11.18
400-650-500	RUBBER BAND #18 1/4LB	3426659680	10/01/2019	191243	.48
400-650-500	RUBBER BAND #33 1/4LB	3426659680	10/01/2019	191243	.50

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
400	MUSCO-GULFPORT 1227	200308	11/05/2019	10/30/2019			916.20	

Account Number	Description	Invoice #	Date	P.O.	Amount
400-651-584	8" GATE VALVE: GRAVELINE LS	0651908	10/15/2019	200060	750.00
400-651-584	FLANGE KIT PKG:GRAVELINE LS(5)	0652118	10/17/2019	200070	55.00
400-651-583	2-5/16-12 SS HOSE CLAMP (12)	0652118	10/17/2019	200070	36.00
400-651-583	4X14 SDR26 HW PVC SWR PIPE(14)	0652118-1	10/21/2019	200070	18.20
400-651-583	4PVC SWR SW 45 ELL HXH (12)	0652118-1	10/21/2019	200070	36.00
400-651-583	4 PVC SWR SW 90 ELL HXH (6)	0652118-1	10/21/2019	200070	21.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
400	LYMAN WELL COMPANY	200312	11/05/2019	10/30/2019			2,200.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
400-651-584	EMERGENCY REPR:GRAVELINE #2	10402	10/29/2019	200114	2,200.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
400	J H WRIGHT & ASSOCIATES INC	200316	11/05/2019	10/30/2019			3,680.00	

Account Number	Description	Invoice #	Date	P.O.	Amount
400-651-584	TRANSDUCER: SPARE	418985	10/16/2019	191241	600.00
400-651-584	PMPU PHASE MONITOR (4):SPARES	418894	10/11/2019	200016	480.00
400-651-584	PC2000 CONTROLLER LS(4):SPARES	419120	10/22/2019	200016	2,600.00

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
400	SINGING RIVER ELECTRIC COOPERATIVE	200319	11/05/2019	10/30/2019			8,226.75	

Account Number	Description	Invoice #	Date	P.O.	Amount
400-651-631	IONIZATION PLANT 99216002	10182019	10/28/2019		332.44
400-651-631	LIFT STATIONS 17882	10182019	10/28/2019		2,585.57
400-651-631	WATER WELLS 17882	10182019	10/28/2019		2,635.67
400-651-631	CITY HALL SOUTH 17882	10182019	10/28/2019		2,673.07

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
400	CITY OF GAUTIER	200326	11/05/2019	10/30/2019			124,608.66	

Account Number	Description	Invoice #	Date	P.O.	Amount
400-000-104	SEP 2019 GARBAGE PMTS	09302019	09/30/2019		124,608.66

FUND TOTAL 400 Claims to Checks 22 Total 227,840.11 Manual Held Total 227,840.11

Docket of Claims
Release date from 11/05/2019 thru 11/05/2019

SUMMARY OF ALL FUNDS

FUND 1	Claims	to	Checks	68	Total	75,778.18	Manual	Held	Total	75,778.18
FUND 157	Claims	to	Checks	1	Total	2,409.60	Manual	Held	Total	2,409.60
FUND 171	Claims	to	Checks	2	Total	51,481.00	Manual	Held	Total	51,481.00
FUND 172	Claims	to	Checks	1	Total	1,557.03	Manual	Held	Total	1,557.03
FUND 176	Claims	to	Checks	7	Total	4,101.41	Manual	Held	Total	4,101.41
FUND 303	Claims	to	Checks	1	Total	2,925.92	Manual	Held	Total	2,925.92
FUND 351	Claims	to	Checks	1	Total	74,923.74	Manual	Held	Total	74,923.74
FUND 355	Claims	to	Checks	1	Total	54,400.00	Manual	Held	Total	54,400.00
FUND 400	Claims	to	Checks	22	Total	227,840.11	Manual	Held	Total	227,840.11
	Total for all Funds		Checks	104	Total	495,416.99	Manual	Held	Total	495,416.99

Councilman Colledge made the motion to acknowledge bids and award contract to DNA Underground for Hwy. 57 Water/Sewer relocation project, as presented. Councilman Vaughan seconded the motion. The vote was carried unanimously.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 232-2019

WHEREAS, on October 31, 2019, the project engineer Seymour Engineering, received sealed bids for the Hwy. 57 Water/Sewer Relocation project; and

WHEREAS, this is a joint project with the Mississippi Department of Transportation for the relocation of the City' sewer and water lines on Hwy 57. The work is necessary due to the MDOT expansion of Hwy 57 (STP-0066-01(007); 103060-201500); and

WHEREAS, Mississippi Department of Transportation (MDOT) has agreed to pay 48.4% of the wastewater expenses and 54.8% of the water expenses; and

WHEREAS, the low bidder was DNA Underground, with a base bid of $690,783.80; and

WHEREAS, the Seymour Engineer has reviewed the bidder's qualifications and recommends awarding this contract to DNA Underground , as the lowest and best bid; and

WHEREAS, the Mayor and Council Members hereby find that DNA Underground has submitted the lowest and best bid; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the award and execution of a contract with DNA Underground for the Hwy. 57 Water/Sewer Relocation project is hereby authorized and approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilman Colledge,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

MAYOR

ATTEST:

CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager

From: April Stennett, Grants and Projects Director

Date: November 4, 2019

Subject: Authorization to Acknowledge Bids and Award Contract for Hwy. 57 Water/Sewer Relocation Project

---

REQUEST:
The Grants and Projects Department requests that City Council acknowledge receipt of five bids for the Hwy. 57 Water/Sewer Relocation Project and award a contract to the low bidder, DNA Underground, Inc.

BACKGROUND:
This is a joint project with the Mississippi Department of Transportation for the relocation of the City' sewer and water lines on Hwy 57. The work is necessary due to the MDOT expansion of Hwy 57 (STP-0066-01(007); 103060-201500).

MDOT has agreed to pay 48.4% of the wastewater expenses and 54.8% of the water expenses.

DISCUSSION:
Five bids for this project were received and opened Oct. 31, 2019. The bidders were DNA Underground, Inc., JLB Contractors, Miller Enterprises, LLC., Moran Hauling, Inc., and SCI, Inc. The low bidder was DNA Underground, with a bid of $690,783.80.

Seymour Engineering has checked the bids and recommends approval.

RECOMMENDATION:
The Grants and Projects Department recommends that City Council acknowledge receipt of five bids for the Hwy. 57 Water/Sewer Relocation Project and award a contract to the low bidder, DNA Underground, Inc.

The City Council may:
1. Acknowledge the bids and award a contract to the low bidder, as presented; or
2. Not acknowledge the bids and now award a contract to the low bidder as presented.

ATTACHMENT(S):

1. Recommendation Letter
2. Bid Tabulation
3. Contract
4. General Conditions
5. Supplementary Conditions

SEYMOUR ENGINEERING

November 4, 2019

Ms. Paula Yancey
City Manager
City of Gautier
3330 Highway 90
Gautier, MS 39533

Re: Acknowledge Receipt of Bids and Recommendation of Award
Highway 57 Utilities Relocation, STP-0066-01(007); 103060-203500

Dear Ms. Yancey,

Please be advised that on Thursday, October 31, 2019, at 2:00 PM, bids were received for the referenced project. As you will see from the attached bid tabulation, DNA Underground, LLC is the low bidder. This contractor has a positive reputation and adequate experience and expertise to perform the duties required by the contract documents. Therefore, I recommend awarding this Construction Contract to DNA Underground, LLC in their bid amount of $690,783.80.

Should you have any questions or comments, please do not hesitate to call.

Sincerely,
SEYMOUR ENGINEERING

Durlon Reed Bryant, P.E.
Project Engineer

Cc: Ms. April Stennett, Grants and Project Administrator

Attachment: Certified Bid Tabulation
Construction Contract
Construction Contract General Conditions
Construction Contract Supplementary General Conditions

925 Tommy Munro Dr., Suite G, Biloxi, MS 39535
Phone: 228-385-2350 Fax: 228-385-2353
se@seymoureng.com www.seymoureng.com

SEYMOUR SE ENGINEERING

HIGHWAY 57 UTILITIES RELOCATION
STP-0066-01(007); 103060-203500
CITY OF GAUTIER, MIISSISSIPPI
CONTRACTOR'S BID TABULATION

Bid Opening: Thursday, October 31, 2019, at 2:00 P.M. Central Time
Location: Gautier City Hall, 3330 Highway 90, Gautier, MS 39553

Contractor Address City, State		Engineer's Estimate	DNA Underground, Inc. 16101 South Swan Rd. Gulfport, MS 39503 20907-MC		JLB Contractors 21294 Johnson Rd. Long Beach, MS 39560 21884-MC		Miller Enterprises LLC. 136 Wilson Rd Hattiesburg, MS 39402 17668-MC		Moran Hauling Inc. 17078 Magnolia Cove Dr Pass Christian, MS 39571 09083-MC		SCI, Inc. 13520 Old Highway 67 Biloxi, MS 39532 04939-MC	
Item. No.	**Description**	**Quantity**	**Unit**	**Unit Price**	**Extension**	**Unit Price**	**Extension**	**Unit Price**	**Extension**	**Unit Price**	**Extension**	**Unit Price**	**Extension**
SHARED BID ITEMS													
1	Mobilization	100%	LS	$ 25,000.00	$ 25,000.00	$ 34,000.00	$ 34,000.00	$ 50,000.00	$ 50,000.00	$ 22,965.00	$ 22,965.00	$ 90,000.00	$ 90,000.00	$ 66,558.00	$ 66,558.00
2	Special $100,000 MDOT Performance Bond	1	LS	$ 10,000.00	$ 10,000.00	$ 1,062.00	$ 1,062.00	$ 4,500.00	$ 4,500.00	$ 1,247.00	$ 1,247.00	$ 2,000.00	$ 2,000.00	$ 2,500.00	$ 2,500.00
3	Traffic Control	100%	LS	$ 25,000.00	$ 25,000.00	$ 6,245.00	$ 6,245.00	$ 25,000.00	$ 25,000.00	$ 17,464.00	$ 17,464.00	$ 32,000.00	$ 32,000.00	$ 12,190.00	$ 12,190.00
4	Clearing & Grubbing	0.45	AC	$ 12,000.00	$ 5,400.00	$ 2,690.00	$ 1,210.50	$ 7,000.00	$ 3,150.00	$ 19,905.00	$ 8,957.25	$ 10,000.00	$ 4,500.00	$ 8,000.00	$ 3,600.00
5	Construction Layout	1	LS	$ 15,000.00	$ 15,000.00	$ 4,375.00	$ 4,375.00	$ 25,000.00	$ 25,000.00	$ 6,237.00	$ 6,237.00	$ 16,500.00	$ 16,500.00	$ 5,600.00	$ 5,600.00
6	Plant Establishment	1.25	AC	$ 2,200.00	$ 2,750.00	$ 6,722.00	$ 8,402.50	$ 6,000.00	$ 7,500.00	$ 2,663.00	$ 3,328.75	$ 4,000.00	$ 5,000.00	$ 3,220.00	$ 4,025.00
7	Solid Sod	1500	SY	$ 6.00	$ 9,000.00	$ 6.00	$ 9,000.00	$ 5.50	$ 8,250.00	$ 6.00	$ 9,000.00	$ 5.75	$ 8,625.00	$ 5.50	$ 8,250.00
8	Top Soil	100	CY	$ 28.00	$ 2,800.00	$ 20.00	$ 2,000.00	$ 35.00	$ 3,500.00	$ 36.00	$ 3,600.00	$ 16.00	$ 1,600.00	$ 30.00	$ 3,000.00
9	Dewatering	1000	LF	$ 25.00	$ 25,000.00	$ 15.00	$ 15,000.00	$ 10.00	$ 10,000.00	$ 36.00	$ 36,000.00	$ 24.30	$ 24,300.00	$ 1.00	$ 1,000.00
10	Construction Entrance	1	EA	$ 4,000.00	$ 4,000.00	$ 3,048.00	$ 3,048.00	$ 3,500.00	$ 3,500.00	$ 5,155.00	$ 5,155.00	$ 4,300.00	$ 4,300.00	$ 3,000.00	$ 3,000.00
11	Silt Fence	600	LF	$ 4.00	$ 2,400.00	$ 2.00	$ 1,200.00	$ 4.50	$ 2,700.00	$ 5.00	$ 3,000.00	$ 4.50	$ 2,700.00	$ 3.30	$ 1,980.00
12	Erosion Control Blanket	350	SY	$ 2.00	$ 700.00	$ 3.00	$ 1,050.00	$ 5.00	$ 1,750.00	$ 3.00	$ 1,050.00	$ 3.50	$ 1,225.00	$ 2.20	$ 770.00
13	Wattles (20" Diameter)	750	LF	$ 40.00	$ 30,000.00	$ 4.00	$ 3,000.00	$ 6.00	$ 4,500.00	$ 6.00	$ 4,500.00	$ 7.00	$ 5,250.00	$ 5.80	$ 4,350.00
14	Utility Allowance	1	LS	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00
WATERWORKS BID ITEMS													
15	Undercut Excavation	100	CY	$ 10.00	$ 1,000.00	$ 4.00	$ 400.00	$ 10.00	$ 1,000.00	$ 17.00	$ 1,700.00	$ 7.25	$ 725.00	$ 10.00	$ 1,000.00
16	Cut & Cap 2.5" Water Main	2	EA	$ 650.00	$ 1,300.00	$ 250.00	$ 500.00	$ 500.00	$ 1,000.00	$ 856.00	$ 1,712.00	$ 1,000.00	$ 2,000.00	$ 379.70	$ 759.40
17	Cut & Cap 8" Water Main	2	EA	$ 1,200.00	$ 2,400.00	$ 500.00	$ 1,000.00	$ 600.00	$ 1,200.00	$ 1,280.00	$ 2,560.00	$ 1,200.00	$ 2,400.00	$ 919.00	$ 1,838.00
18	Remove/ Salvage Fire Hydrant Assembly	2	EA	$ 4,100.00	$ 8,200.00	$ 250.00	$ 500.00	$ 950.00	$ 1,900.00	$ 1,705.00	$ 3,410.00	$ 664.00	$ 1,328.00	$ 875.00	$ 1,750.00
19	Saw Cut Pavement (All Types & Thicknesses)	105	LF	$ 4.75	$ 498.75	$ 4.00	$ 420.00	$ 6.00	$ 630.00	$ 16.00	$ 1,680.00	$ 10.50	$ 1,102.50	$ 5.00	$ 525.00
20	Remove Existing Pavement (All Types & Thicknesses)	75	SY	$ 6.50	$ 487.50	$ 10.00	$ 750.00	$ 15.00	$ 1,125.00	$ 12.00	$ 900.00	$ 10.50	$ 787.50	$ 6.00	$ 450.00
21	Fire Hydrant Assembly	3	EA	$ 4,500.00	$ 13,500.00	$ 4,000.00	$ 12,000.00	$ 6,200.00	$ 18,600.00	$ 4,674.00	$ 14,022.00	$ 4,700.00	$ 14,100.00	$ 4,537.50	$ 13,612.50
22	12" Line Stop- Water Main	2	EA	$ 8,000.00	$ 16,000.00	$ 9,600.00	$ 19,200.00	$ 9,500.00	$ 19,000.00	$ 10,481.00	$ 20,962.00	$ 8,720.00	$ 17,440.00	$ 10,000.00	$ 20,000.00
23	2.5" HDPE Water Service	275	LF	$ 60.00	$ 16,500.00	$ 4.00	$ 1,100.00	$ 8.00	$ 2,200.00	$ 9.00	$ 2,475.00	$ 5.15	$ 1,416.25	$ 18.20	$ 5,005.00
24	1" HDPE Water Service	145	LF	$ 18.00	$ 2,610.00	$ 2.00	$ 290.00	$ 10.00	$ 1,450.00	$ 9.00	$ 1,305.00	$ 3.50	$ 507.50	$ 15.50	$ 2,247.50
25	Connect to Existing 2.5" Water Main	1	LS	$ 800.00	$ 800.00	$ 500.00	$ 500.00	$ 1,000.00	$ 1,000.00	$ 2,679.00	$ 2,679.00	$ 2,980.00	$ 2,980.00	$ 561.50	$ 561.50
26	Crushed Limestone (610)	18	CY	$ 20.00	$ 360.00	$ 65.00	$ 1,170.00	$ 110.00	$ 1,980.00	$ 184.00	$ 3,312.00	$ 96.00	$ 1,728.00	$ 95.00	$ 1,710.00
27	Hot Bituminous Pavement (MDOT ST, 9.5 mm mix, 4" Thick)	10	TON	$ 120.00	$ 1,200.00	$ 281.00	$ 2,810.00	$ 300.00	$ 3,000.00	$ 437.00	$ 4,370.00	$ 240.00	$ 2,400.00	$ 345.00	$ 3,450.00
28	Hot Bituminous Pavement (MDOT ST, 12.5 mm mix, 4" Thick)	10	TON	$ 145.00	$ 1,450.00	$ 281.00	$ 2,810.00	$ 300.00	$ 3,000.00	$ 312.00	$ 3,120.00	$ 240.00	$ 2,400.00	$ 345.00	$ 3,450.00
29	Thermoplastic Striping (At Trenched Asphalt Crossings)	1	LS	$ 3,500.00	$ 3,500.00	$ 500.00	$ 500.00	$ 7,500.00	$ 7,500.00	$ 5,613.00	$ 5,613.00	$ 1,500.00	$ 1,500.00	$ 460.00	$ 460.00
30	Geogrid	75	SY	$ 5.00	$ 375.00	$ 15.00	$ 1,125.00	$ 10.00	$ 750.00	$ 9.00	$ 675.00	$ 3.65	$ 273.75	$ 1.70	$ 127.50
31	Flowable Fill	45	CY	$ 210.00	$ 9,450.00	$ 200.00	$ 9,000.00	$ 500.00	$ 22,500.00	$ 346.00	$ 15,570.00	$ 250.00	$ 11,250.00	$ 185.00	$ 8,325.00
32	Select Bedding	160	CY	$ 50.00	$ 8,000.00	$ 14.00	$ 2,240.00	$ 15.00	$ 2,400.00	$ 111.00	$ 17,760.00	$ 26.75	$ 4,280.00	$ 18.00	$ 2,880.00

SEYMOUR SE ENGINEERING

HIGHWAY 57 UTILITIES RELOCATION
STP-0066-01(007); 103060-203500
CITY OF GAUTIER, MIISSISSIPPI
CONTRACTOR'S BID TABULATION

Bid Opening: Thursday, October 31, 2019, at 2:00 P.M. Central Time
Location: Gautier City Hall, 3330 Highway 90, Gautier, MS 39553

Contractor Address City, State	Engineer's Estimate	DNA Underground, Inc. 16101 South Swan Rd. Gulfport, MS 39503 20907-MC	JLB Contractors 21294 Johnson Rd. Long Beach, MS 39560 21884-MC	Miller Enterprises LLC. 136 Wilson Rd Hattiesburg, MS 39402 17668-MC	Moran Hauling Inc. 17078 Magnolia Cove Dr Pass Christian, MS 39571 09083-MC	SCI, Inc. 13520 Old Highway 67 Biloxi, MS 39532 04939-MC

Item. No.	Description	Quantity	Unit	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
33	Class 9 Backfill	350	CY	$ 15.00	$ 5,250.00	$ 14.00	$ 4,900.00	$ 15.00	$ 5,250.00	$ 14.00	$ 4,900.00	$ 13.50	$ 4,725.00	$ 18.00	$ 6,300.00
34	Hose Bib Assembly	1	EA	$ 200.00	$ 200.00	$ 500.00	$ 500.00	$ 750.00	$ 750.00	$ 1,011.00	$ 1,011.00	$ 490.00	$ 490.00	$ 317.00	$ 317.00
35	12" C-900 PVC Water Main	1,000	LF	$ 26.00	$ 26,000.00	$ 26.00	$ 26,000.00	$ 36.00	$ 36,000.00	$ 25.00	$ 25,000.00	$ 32.50	$ 32,500.00	$ 31.50	$ 31,500.00
36	12" HDPE Directional Bored Water Main	140	LF	$ 200.00	$ 28,000.00	$ 130.00	$ 18,200.00	$ 195.00	$ 27,300.00	$ 228.00	$ 31,920.00	$ 182.00	$ 25,480.00	$ 164.50	$ 23,030.00
37	6" HDPE DR-11 Casing	214	LF	$ 65.00	$ 13,910.00	$ 80.00	$ 17,120.00	$ 75.00	$ 16,050.00	$ 30.00	$ 6,420.00	$ 74.25	$ 15,889.50	$ 106.70	$ 22,833.80
38	6" Steel Casing	30	LF	$ 95.00	$ 2,850.00	$ 40.00	$ 1,200.00	$ 50.00	$ 1,500.00	$ 34.00	$ 1,020.00	$ 125.00	$ 3,750.00	$ 55.20	$ 1,656.00
39	24" Steel Casing	26	LF	$ 175.00	$ 4,550.00	$ 100.00	$ 2,600.00	$ 115.00	$ 2,990.00	$ 97.00	$ 2,522.00	$ 165.00	$ 4,290.00	$ 174.10	$ 4,526.60
40	Reconfigure Existing 12" Water Main Around Proposed Manhole	1	LS	$ 1,800.00	$ 1,800.00	$ 2,500.00	$ 2,500.00	$ 5,500.00	$ 5,500.00	$ 2,290.00	$ 2,290.00	$ 2,645.00	$ 2,645.00	$ 2,000.00	$ 2,000.00
41	12"x12" Tapping Sleeve and Valve Assembly (Water)	2	EA	$ 6,000.00	$ 12,000.00	$ 6,000.00	$ 12,000.00	$ 12,000.00	$ 24,000.00	$ 6,152.00	$ 12,304.00	$ 5,882.00	$ 11,764.00	$ 6,287.10	$ 12,574.20
42	12"x1" Tapping Saddle (Water)	1	EA	$ 2,200.00	$ 2,200.00	$ 550.00	$ 550.00	$ 1,200.00	$ 1,200.00	$ 1,386.00	$ 1,386.00	$ 500.00	$ 500.00	$ 316.40	$ 316.40
43	12"x2.5" Tapping Saddle (Water)	1	EA	$ 2,800.00	$ 2,800.00	$ 2,500.00	$ 2,500.00	$ 2,500.00	$ 2,500.00	$ 2,788.00	$ 2,788.00	$ 2,175.00	$ 2,175.00	$ 2,314.40	$ 2,314.40
44	Ductile Iron Fittings	1.62	TON	$ 11,500.00	$ 18,630.00	$ 13,980.00	$ 22,647.60	$ 13,500.00	$ 21,870.00	$ 15,685.00	$ 25,409.70	$ 17,000.00	$ 27,540.00	$ 15,744.00	$ 25,505.28
WASTEWATER BID ITEMS															
45	Undercut Excavation*	225	CY	$ 9.00	$ 2,025.00	$ 4.00	$ 900.00	$ 10.00	$ 2,250.00	$ 17.00	$ 3,825.00	$ 7.25	$ 1,631.25	$ 10.00	$ 2,250.00
46	Cut & Cap Existing 8" Gravity Sewer	2	EA	$ 800.00	$ 1,600.00	$ 500.00	$ 1,000.00	$ 500.00	$ 1,000.00	$ 1,072.00	$ 2,144.00	$ 1,016.00	$ 2,032.00	$ 552.70	$ 1,105.40
47	Cut & Cap Existing 10" Gravity Sewer	1	EA	$ 800.00	$ 800.00	$ 500.00	$ 500.00	$ 1,000.00	$ 1,000.00	$ 1,122.00	$ 1,122.00	$ 1,063.00	$ 1,063.00	$ 616.10	$ 616.10
48	Cut & Cap Existing 2" Force Main	4	EA	$ 400.00	$ 1,600.00	$ 500.00	$ 2,000.00	$ 450.00	$ 1,800.00	$ 1,052.00	$ 4,208.00	$ 665.00	$ 2,660.00	$ 371.40	$ 1,485.60
49	Remove Existing 8" Gravity Sewer (Preparation for SMH #10)	10	LF	$ 100.00	$ 1,000.00	$ 120.00	$ 1,200.00	$ 100.00	$ 1,000.00	$ 24.00	$ 240.00	$ 100.00	$ 1,000.00	$ 20.00	$ 200.00
50	Remove 4" PVC Sewer Lateral	35	LF	$ 12.00	$ 420.00	$ 40.00	$ 1,400.00	$ 20.00	$ 700.00	$ 24.00	$ 840.00	$ 50.00	$ 1,750.00	$ 12.90	$ 451.50
51	Remove 18" Steel Casing & Sewer Carrier Pipe (Across Stream)	1	LS	$ 1,200.00	$ 1,200.00	$ 3,361.00	$ 3,361.00	$ 7,500.00	$ 7,500.00	$ 2,413.00	$ 2,413.00	$ 5,700.00	$ 5,700.00	$ 1,750.00	$ 1,750.00
52	Remove 10" Gravity Sewer (At Lift Station)	20	LF	$ 100.00	$ 2,000.00	$ 33.00	$ 660.00	$ 30.00	$ 600.00	$ 24.00	$ 480.00	$ 100.00	$ 2,000.00	$ 30.00	$ 600.00
53	Remove 12" Gravity Sewer (On North End)	30	LF	$ 120.00	$ 3,600.00	$ 33.00	$ 990.00	$ 35.00	$ 1,050.00	$ 24.00	$ 720.00	$ 100.00	$ 3,000.00	$ 33.40	$ 1,002.00
54	Saw Cut Pavement (All Types & Thicknesses)	275	LF	$ 4.75	$ 1,306.25	$ 4.00	$ 1,100.00	$ 6.00	$ 1,650.00	$ 16.00	$ 4,400.00	$ 10.50	$ 2,887.50	$ 5.00	$ 1,375.00
55	Remove Existing Pavement (All Types & Thicknesses)	175	SY	$ 6.50	$ 1,137.50	$ 10.00	$ 1,750.00	$ 15.00	$ 2,625.00	$ 11.00	$ 1,925.00	$ 10.50	$ 1,837.50	$ 6.00	$ 1,050.00
56	Demo Existing Manhole	5	EA	$ 750.00	$ 3,750.00	$ 1,138.00	$ 5,690.00	$ 750.00	$ 3,750.00	$ 1,303.00	$ 6,515.00	$ 1,500.00	$ 7,500.00	$ 800.00	$ 4,000.00
57	8" Line Stop- Sewer Force Main	2	EA	$ 7,200.00	$ 14,400.00	$ 7,037.00	$ 14,074.00	$ 7,500.00	$ 15,000.00	$ 8,192.00	$ 16,384.00	$ 8,840.00	$ 17,680.00	$ 7,625.00	$ 15,250.00
58	2" HDPE Sewer Service	270	LF	$ 58.00	$ 15,660.00	$ 9.00	$ 2,430.00	$ 8.00	$ 2,160.00	$ 14.00	$ 3,780.00	$ 3.25	$ 877.50	$ 11.90	$ 3,213.00
59	Connect to Existing 2" Sewer Force Main	1	LS	$ 400.00	$ 400.00	$ 1,200.00	$ 1,200.00	$ 850.00	$ 850.00	$ 1,040.00	$ 1,040.00	$ 1,175.00	$ 1,175.00	$ 300.20	$ 300.20
60	Connect 2" Sewer Force Main to Manhole	2	EA	$ 100.00	$ 200.00	$ 850.00	$ 1,700.00	$ 1,000.00	$ 2,000.00	$ 4,022.00	$ 8,044.00	$ 1,575.00	$ 3,150.00	$ 600.00	$ 1,200.00
61	Concrete Driveway with Reinforcement (6" Thick)	50	SY	$ 80.00	$ 4,000.00	$ 70.00	$ 3,500.00	$ 65.00	$ 3,250.00	$ 86.00	$ 4,300.00	$ 116.00	$ 5,800.00	$ 74.80	$ 3,740.00
62	Crushed Limestone (610)	40	CY	$ 20.00	$ 800.00	$ 65.00	$ 2,600.00	$ 110.00	$ 4,400.00	$ 100.00	$ 4,000.00	$ 96.00	$ 3,840.00	$ 95.00	$ 3,800.00
63	Hot Bituminous Pavement (MDOT ST, 9.5 mm mix, 4" Thick)	22	TON	$ 120.00	$ 2,640.00	$ 281.00	$ 6,182.00	$ 300.00	$ 6,600.00	$ 437.00	$ 9,614.00	$ 240.00	$ 5,280.00	$ 315.00	$ 6,930.00
64	Hot Bituminous Pavement (MDOT ST, 12.5 mm mix, 4" Thick)	22	TON	$ 320.00	$ 7,040.00	$ 281.00	$ 6,182.00	$ 300.00	$ 6,600.00	$ 312.00	$ 6,864.00	$ 240.00	$ 5,280.00	$ 315.00	$ 6,930.00
65	Thermoplastic Striping (At Trenched Asphalt Crossings)	1	LS	$ 290.00	$ 290.00	$ 500.00	$ 500.00	$ 7,500.00	$ 7,500.00	$ 5,613.00	$ 5,613.00	$ 1,500.00	$ 1,500.00	$ 840.00	$ 840.00

SEYMOUR SE ENGINEERING

HIGHWAY 57 UTILITIES RELOCATION
STP-0066-01(007); 103060-203500
CITY OF GAUTIER, MIISSISSIPPI
CONTRACTOR'S BID TABULATION

Bid Opening: Thursday, October 31, 2019, at 2:00 P.M. Central Time
Location: Gautier City Hall, 3330 Highway 90, Gautier, MS 39553

Contractor Address City, State		Engineer's Estimate	DNA Underground, Inc. 16101 South Swan Rd. Gulfport, MS 39503 20907-MC	JLB Contractors 21294 Johnson Rd. Long Beach, MS 39560 21884-MC	Miller Enterprises LLC. 136 Wilson Rd Hattiesburg, MS 39402 17668-MC	Moran Hauling Inc. 17078 Magnolia Cove Dr Pass Christian, MS 39571 09083-MC	SCI, Inc. 13520 Old Highway 67 Biloxi, MS 39532 04939-MC

Item. No.	Description	Quantity	Unit	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
66	Geogrid	175	SY	$ 7.50	$ 1,312.50	$ 15.00	$ 2,625.00	$ 10.00	$ 1,750.00	$ 6.00	$ 1,050.00	$ 3.75	$ 656.25	$ 1.70	$ 297.50
67	Flowable Fill	35	CY	$ 210.00	$ 7,350.00	$ 200.00	$ 7,000.00	$ 500.00	$ 17,500.00	$ 346.00	$ 12,110.00	$ 250.00	$ 8,750.00	$ 185.00	$ 6,475.00
68	Select Bedding*	425	CY	$ 50.00	$ 21,250.00	$ 14.00	$ 5,950.00	$ 15.00	$ 6,375.00	$ 111.00	$ 47,175.00	$ 26.75	$ 11,368.75	$ 18.00	$ 7,650.00
69	Class 9 Backfill*	850	CY	$ 15.00	$ 12,750.00	$ 14.00	$ 11,900.00	$ 15.00	$ 12,750.00	$ 14.00	$ 11,900.00	$ 13.50	$ 11,475.00	$ 18.00	$ 15,300.00
70	8" C-900 PVC Sewer Force Main	780	LF	$ 25.00	$ 19,500.00	$ 15.00	$ 11,700.00	$ 16.00	$ 12,480.00	$ 17.00	$ 13,260.00	$ 23.00	$ 17,940.00	$ 20.10	$ 15,678.00
71	8" HDPE Directional Bored Sewer Force Main	105	LF	$ 190.00	$ 19,950.00	$ 90.00	$ 9,450.00	$ 135.00	$ 14,175.00	$ 216.00	$ 22,680.00	$ 140.50	$ 14,752.50	$ 142.70	$ 14,983.50
72	Sewer Manhole (0'-6' Deep)(48" Diameter)	2	EA	$ 4,100.00	$ 8,200.00	$ 3,000.00	$ 6,000.00	$ 2,800.00	$ 5,600.00	$ 2,301.00	$ 4,602.00	$ 2,157.00	$ 4,314.00	$ 2,105.10	$ 4,210.20
73	Sewer Manhole (6'-8' Deep)(48" Diameter)	3	EA	$ 5,200.00	$ 15,600.00	$ 3,500.00	$ 10,500.00	$ 3,500.00	$ 10,500.00	$ 2,747.00	$ 8,241.00	$ 2,342.00	$ 7,026.00	$ 2,476.20	$ 7,428.60
74	Sewer Manhole (8'-10' Deep)(48" Diameter)	3	EA	$ 6,000.00	$ 18,000.00	$ 4,000.00	$ 12,000.00	$ 4,500.00	$ 13,500.00	$ 3,717.00	$ 11,151.00	$ 3,175.00	$ 9,525.00	$ 3,572.20	$ 10,716.60
75	Sewer Manhole (10'-12' Deep)(48" Diameter)	5	EA	$ 7,200.00	$ 36,000.00	$ 4,500.00	$ 22,500.00	$ 6,500.00	$ 32,500.00	$ 4,546.00	$ 22,730.00	$ 4,006.89	$ 20,034.45	$ 4,034.90	$ 20,174.50
76	Sewer Manhole (16'-18' Deep)(48" Diameter)	1	EA	$ 8,500.00	$ 8,500.00	$ 5,500.00	$ 5,500.00	$ 9,500.00	$ 9,500.00	$ 6,130.00	$ 6,130.00	$ 5,905.25	$ 5,905.25	$ 6,825.00	$ 6,825.00
77	8" PVC Sewer Pipe- SDR 26 (0'-6' Deep)	85	LF	$ 32.00	$ 2,720.00	$ 28.00	$ 2,380.00	$ 48.00	$ 4,080.00	$ 16.00	$ 1,360.00	$ 37.00	$ 3,145.00	$ 28.20	$ 2,397.00
78	10" PVC Sewer Pipe- SDR 26 (0'-6' Deep)	350	LF	$ 38.00	$ 13,300.00	$ 30.00	$ 10,500.00	$ 50.00	$ 17,500.00	$ 19.00	$ 6,650.00	$ 25.00	$ 8,750.00	$ 31.40	$ 10,990.00
79	10" PVC Sewer Pipe- SDR 26 (6'-8' Deep)	178	LF	$ 45.00	$ 8,010.00	$ 32.00	$ 5,696.00	$ 52.00	$ 9,256.00	$ 19.00	$ 3,382.00	$ 27.00	$ 4,806.00	$ 34.20	$ 6,087.60
80	10" PVC Sewer Pipe- SDR 26 (8'-10' Deep)	40	LF	$ 50.00	$ 2,000.00	$ 34.00	$ 1,360.00	$ 56.00	$ 2,240.00	$ 21.00	$ 840.00	$ 34.00	$ 1,360.00	$ 49.40	$ 1,976.00
81	12" PVC Sewer Pipe- SDR 26 (8'-10' Deep)	480	LF	$ 58.00	$ 27,840.00	$ 40.00	$ 19,200.00	$ 57.00	$ 27,360.00	$ 24.00	$ 11,520.00	$ 28.60	$ 13,728.00	$ 53.00	$ 25,440.00
82	12" PVC Sewer Pipe- SDR 26 (10'-12' Deep)	552	LF	$ 62.00	$ 34,224.00	$ 45.00	$ 24,840.00	$ 65.00	$ 35,880.00	$ 50.00	$ 27,600.00	$ 28.60	$ 15,787.20	$ 57.10	$ 31,519.20
83	12" PVC Sewer Pipe- SDR 26 (12'-14' Deep)	168	LF	$ 68.00	$ 11,424.00	$ 50.00	$ 8,400.00	$ 70.00	$ 11,760.00	$ 88.00	$ 14,784.00	$ 42.50	$ 7,140.00	$ 66.60	$ 11,188.80
84	12" PVC Sewer Pipe- SDR 26 (14'-16' Deep)	108	LF	$ 72.00	$ 7,776.00	$ 60.00	$ 6,480.00	$ 100.00	$ 10,800.00	$ 88.00	$ 9,504.00	$ 60.00	$ 6,480.00	$ 82.00	$ 8,856.00
85	12" PVC Sewer Pipe- SDR 26 (16'-18' Deep)	40	LF	$ 78.00	$ 3,120.00	$ 70.00	$ 2,800.00	$ 120.00	$ 4,800.00	$ 88.00	$ 3,520.00	$ 70.00	$ 2,800.00	$ 95.70	$ 3,828.00
86	15" PVC Sewer Pipe- SDR 26 (8'-10' Deep)	152	LF	$ 78.00	$ 11,856.00	$ 70.00	$ 10,640.00	$ 65.00	$ 9,880.00	$ 31.00	$ 4,712.00	$ 51.50	$ 7,828.00	$ 59.30	$ 9,013.60
87	10" Ductile Iron Pipe Gravity Sewer (0'-6' Deep)(Approx. 60 LF)(Includes all bypassing or damming of stream to perform install)	1	LS	$ 60.00	$ 60.00	$ 15,000.00	$ 15,000.00	$ 25,000.00	$ 25,000.00	$ 10,184.00	$ 10,184.00	$ 12,000.00	$ 12,000.00	$ 7,310.00	$ 7,310.00
88	6" HDPE DR-11 Casing	177	LF	$ 100.00	$ 17,700.00	$ 80.00	$ 14,160.00	$ 75.00	$ 13,275.00	$ 30.00	$ 5,310.00	$ 85.00	$ 15,045.00	$ 105.50	$ 18,673.50
89	16" Steel Casing	56	LF	$ 160.00	$ 8,960.00	$ 90.00	$ 5,040.00	$ 75.00	$ 4,200.00	$ 93.00	$ 5,208.00	$ 120.00	$ 6,720.00	$ 85.00	$ 4,760.00
90	24" Steel Casing	173	LF	$ 175.00	$ 30,275.00	$ 120.00	$ 20,760.00	$ 115.00	$ 19,895.00	$ 99.00	$ 17,127.00	$ 164.00	$ 28,372.00	$ 122.00	$ 21,106.00
91	30" Steel Casing	30	LF	$ 210.00	$ 6,300.00	$ 140.00	$ 4,200.00	$ 160.00	$ 4,800.00	$ 139.00	$ 4,170.00	$ 230.00	$ 6,900.00	$ 169.50	$ 5,085.00
92	Connect Existing 8" Gravity Into New Manhole (0'-6' Deep)	1	EA	$ 1,200.00	$ 1,200.00	$ 1,680.00	$ 1,680.00	$ 1,200.00	$ 1,200.00	$ 2,163.00	$ 2,163.00	$ 1,000.00	$ 1,000.00	$ 544.60	$ 544.60
93	Connect 12" PVC Sewer Pipe - SDR 26 to Existing Manhole (10- 12' Deep)	1	EA	$ 2,100.00	$ 2,100.00	$ 1,680.00	$ 1,680.00	$ 1,500.00	$ 1,500.00	$ 2,877.00	$ 2,877.00	$ 3,500.00	$ 3,500.00	$ 1,000.00	$ 1,000.00
94	12"x4" PVC Wye for Sewer Service Lateral	1	EA	$ 1,500.00	$ 1,500.00	$ 440.00	$ 440.00	$ 750.00	$ 750.00	$ 692.00	$ 692.00	$ 1,260.00	$ 1,260.00	$ 188.20	$ 188.20
95	4" PVC Sewer Service Lateral (Including Cleanout)	10	LF	$ 50.00	$ 500.00	$ 28.00	$ 280.00	$ 350.00	$ 3,500.00	$ 119.00	$ 1,190.00	$ 350.00	$ 3,500.00	$ 72.20	$ 722.00
96	8"x8" Tapping Sleeve and Valve Assembly (Sewer)	2	EA	$ 4,000.00	$ 8,000.00	$ 3,477.00	$ 6,954.00	$ 4,800.00	$ 9,600.00	$ 3,216.00	$ 6,432.00	$ 4,100.00	$ 8,200.00	$ 3,363.10	$ 6,726.20
97	2" Air Release Valve and Vault	2	EA	$ 15,000.00	$ 30,000.00	$ 10,000.00	$ 20,000.00	$ 16,500.00	$ 33,000.00	$ 11,639.00	$ 23,278.00	$ 3,212.00	$ 6,424.00	$ 8,271.50	$ 16,543.00
98	Connect 15" PVC Sewer Pipe - SDR 26 to Existing Wetwell (to Existing Wet Well)(8'-10' Deep)(Including Concrete Core into the side of Existing Wet Well)	1	EA	$ 12,000.00	$ 12,000.00	$ 3,000.00	$ 3,000.00	$ 1,800.00	$ 1,800.00	$ 6,172.00	$ 6,172.00	$ 6,900.00	$ 6,900.00	$ 1,500.00	$ 1,500.00

SEYMOUR SE ENGINEERING

HIGHWAY 57 UTILITIES RELOCATION
STP-0066-01(007); 103060-203500
CITY OF GAUTIER, MIISSISSIPPI
CONTRACTOR'S BID TABULATION

Bid Opening: Thursday, October 31, 2019, at 2:00 P.M. Central Time
Location: Gautier City Hall, 3330 Highway 90, Gautier, MS 39553

Contractor Address City, State			Engineer's Estimate		DNA Underground, Inc. 16101 South Swan Rd. Gulfport, MS 39503 20907-MC		JLB Contractors 21294 Johnson Rd. Long Beach, MS 39560 21884-MC		Miller Enterprises LLC. 136 Wilson Rd Hattiesburg, MS 39402 17668-MC		Moran Hauling Inc. 17078 Magnolia Cove Dr Pass Christian, MS 39571 09083-MC		SCI, Inc. 13520 Old Highway 67 Biloxi, MS 39532 04939-MC	
Item. No.	**Description**	**Quantity**	**Unit**	**Unit Price**	**Extension**	**Unit Price**	**Extension**	**Unit Price**	**Extension**	**Unit Price**	**Extension**	**Unit Price**	**Extension**
99	Rerouting of 15" HDPE Drain Pipe (Including Ditch Reshaping & Grading)	1	LS	$ 1,800.00	$ 1,800.00	$ 3,000.00	$ 3,000.00	$ 6,200.00	$ 6,200.00	$ 1,979.00	$ 1,979.00	$ 4,730.00	$ 4,730.00	$ 2,232.50	$ 2,232.50
100	Ductile Iron Fittings*	0.6	TON	$ 11,500.00	$ 6,900.00	$ 13,980.00	$ 8,388.00	$ 13,500.00	$ 8,100.00	$ 15,685.00	$ 9,411.00	$ 18,000.00	$ 10,800.00	$ 15,744.00	$ 9,446.40
101	Castings/Gratings	2.89	TON	$ 6,000.00	$ 17,340.00	$ 4,580.00	$ 13,236.20	$ 5,000.00	$ 14,450.00	$ 2,894.00	$ 8,363.66	$ 9,000.00	$ 26,010.00	$ 3,712.00	$ 10,727.68
102	Sewer Bypassing (Includes all associated piping and pumps required to maintain sewer service throughout the entirety of work to be performed)	100%	LS	$ 15,000.00	$ 15,000.00	$ 50,000.00	$ 50,000.00	$ 55,000.00	$ 55,000.00	$ 20,654.00	$ 20,654.00	$ 25,000.00	$ 25,000.00	$ 7,099.00	$ 7,099.00
	TOTAL OF ALL SHARED BID ITEMS				**$ 167,050.00**		**$ 99,593.00**		**$ 159,350.00**		**$ 132,504.00**		**$ 208,000.00**		**$ 126,823.00**
	TOTAL OF ALL WATERWORKS BID ITEMS				**$ 205,821.25**		**$ 167,032.60**		**$ 235,145.00**		**$ 220,795.70**		**$ 200,367.00**		**$ 201,025.08**
	TOTAL OF ALL WASTEWATER BID ITEMS				**$ 516,186.25**		**$ 424,158.20**		**$ 545,741.00**		**$ 458,582.66**		**$ 427,576.15**		**$ 392,787.98**
	TOTAL BID				**$ 889,057.50**		**$ 690,783.80**		**$ 940,236.00**		**$ 811,882.36**		**$ 835,943.15**		**$ 720,636.06**

= Mathematical errors were found in the bid, and the amount shown shows the corrected amount.

DURLON R. BRYANT
LICENSED PROFESSIONAL ENGINEER
28742
11/01/19
STATE OF MISSISSIPPI

I HAVE REVIEWED THESE BIDS AND HEREBY CERTIFY THAT THEY ARE ACCURATE

DURLON R. BRYANT, PROJECT ENGINEER

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification.

SUGGESTED FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

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

AMERICAN COUNCIL OF ENGINEERING COMPANIES

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General Contractors of America

Construction Specifications Institute

EJCDC
SUGGESTED FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR FOR
CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between **CITY OF GAUTIER**

(Owner) and **DNA UNDERGROUND, LLC**

(Contractor).

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

HIGHWAY 57 UTILITIES RELOCATION
STP-0066-01(007); 103060-203500
CITY OF GAUTIER, MISSISSIPPI

The work shall consist of furnishing all labor, supervision, materials, plant, tools, equipment, and layout to perform WATER AND SEWER UTILITY CONSTRUCTION WORK in Gautier, Mississippi. All work shall be completed in strict accordance with the plans and specifications, all federal, state and local regulations and permitted conditions.

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

The project consists of abandoning water and sewer utilities and appurtenances and constructing new water and sewer utilities and appurtenences.

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by

Seymour Engineering
925 Tommy Munro Drive, Suite G
Biloxi, MS 39532

(Engineer), who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

1) HIGHWAY 57 UTILITIES RELOCATION, STP-0066-01(007); 103060-203500, CITY OF GAUTIER, MISSISSIPPI; All work associated with this site shall be completed within ONE-HUNDRED AND EIGHTY (180) calendar days of Notice to Proceed.

4.02 Days to Achieve Substantial Completion and Final Payment

A. The Work associated with HIGHWAY 57 UTILITIES RELOCATION, STP-0066-01(007); 103060-203500, CITY OF GAUTIER, MISSISSIPPI will be substantially completed within one-hundred and eighty (180) calendar days after the date when the Contract Time commences to run as provided in Paragraph 2.03 of the General Conditions.

B. The Work shall be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within one-hundred and eighty (180) calendar days after the date when the Contract Times commence to run.

4.03 Liquidated Damages - "LIQUIDATED DAMAGES IN THE SUM OF $250.00 FOR EACH CONSECUTIVE CALENDAR DAY PER TIME PERIOD NOTED THEREAFTER SHALL BE ASSESSED."

A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner $250.00 for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner $250.00 for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

~~A. For all Work other than Unit Price Work, a Lump Sum of:~~ ~~**N/A**~~

~~(words)~~ ~~(numerals)~~

~~All specific cash allowances are included in the above price and have been computed in accordance with paragraph 11.02 of the General Conditions.~~

B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 5.01.B:

Estimated quantities in the Bid Documents are not guaranteed. It is the Contractor's sole responsibility to perform the necessary field investigation and evaluation for determining the actual site conditions and projection of quantities as per details outlined within the plans and specifications. Additionally, there will be no increase in price or bid given to the Contractor due to ANY variation from the estimated quantities and actual quantities to complete the required work.

As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.07 of the General Conditions. Unit prices have been computed as provided in Paragraph 11.03 of the General Conditions.

UNIT PRICE WORK						
Item No.	Description	Unit	Estimated Quantity	Unit Price		Estimated
	SEE ATTACHED BID SCHEDULE					
	TOTAL OF ALL ESTIMATED PRICES	SIX HUNDRED AND NINETY THOUSAND, SEVEN HUNDRED AND EIGHTY-THREE DOLLARS, AND EIGHTY CENTS				$690,783.80
		(words)				(numerals)

C. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment within thirty (30) days provided that the Contractor has submitted it in sufficient time to be placed on the next regular monthly claims docket during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of 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:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:

a. 90% percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, Owner, on recommendation of Engineer, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage; and

2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95% percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

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

ARTICLE 7 - INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 0 percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work. Additionally, Contractor has performed their own field investigation to verify existing conditions, channel depths, proposed cross section and assessed their anticipated dredge quantities to complete the required work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.

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

F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents. Furthermore, Contractor has performed their own field investigation to verify existing conditions, channel depths, proposed cross sections and assessed their anticipated dredge quantities to complete the required work.

I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

K. The Contractor will name Seymour Engineering and The City of Gautier, MS as additional insured on all general liability insurance provided by this Contractor to complete the scope of work in this Agreement. Contractor shall provide a Waiver of Subrogation to Seymour Engineering and The City of Gautier in respect to workers compensation.

L. The Contractor has no current litigation with the Owner.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 8, inclusive).

2. Performance bond (pages 1 to 3, inclusive).

3. Payment bond (pages 1 to 3, inclusive).

4. Other bonds (pages _____ to _____, inclusive).

   a. _____ (pages _____ to _____, inclusive).

b. _____ (pages _____ to _____, inclusive).

c. _____ (pages _____ to _____, inclusive).

5. General Conditions (pages 1 to 44, inclusive).

6. Supplementary Conditions (pages 1 to 14, inclusive).

7. Specifications as listed in the table of contents of the Project Manual.

8. Drawings consisting of 18 sheets with each sheet bearing the following general title: HIGHWAY 57 UTILITIES RELOCATION STP-0066-01(007); 103060-203500 CITY OF GAUTIER, MISSISSIPPI [or] the Drawings listed on attached sheet index.

9. Addenda (numbers 1 to 1, inclusive).

10. Exhibits to this Agreement (enumerated as follows):

a. Contractor's Bid (pages 1 to 6, inclusive).

b. Documentation submitted by Contractor prior to Notice of Award (pages _____ to _____, inclusive).

c. _____.

11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

a. Notice to Proceed (pages 1 to 1, inclusive).

b. Work Change Directives.

c. Change Order(s).

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

A. Owner to the extent allowed by law and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Other Provisions – N/A

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

This Agreement will be effective on _____, 2019 (which is the Effective Date of the Agreement).

OWNER:

THE CITY OF GAUTIER, MISSISSIPPI

By: _____

Title: CITY MANAGER

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

THE CITY OF GAUTIER, MISSISSIPPI

3330 HIGHWAY 90

GAUTIER, MISSISSIPPI 39553

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement.)

CONTRACTOR:

D.N.A. UNDERGROUND, LLC

By: _____

Title: _____

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

License No.: _____
(Where applicable)

Agent for service or process: _____

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

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 Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by

AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

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Endorsed by

CONSTRUCTION SPECIFICATIONS INSTITUTE

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These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 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 Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

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 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 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.

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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.

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.

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

37. *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.

38. *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.

39. *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.

40. *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.

41. *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

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furnished by Owner which are designated for the use of Contractor.

42. *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.

43. *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.

44. *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.

45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.

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

47. *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 Subcontractor.

48. *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.

49. *Unit Price Work*—Work to be paid for on the basis of unit prices.

50. *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.

51. *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 words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated 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 information in the Contract Documents and with the design concept of the 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:*

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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 that 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

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

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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; Designation of Authorized Representatives*

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.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

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

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 reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated 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, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, 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:

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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 discovers, or has actual knowledge of, 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 (a) any applicable Law or Regulation , (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then 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 had actual knowledge 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, or code, or the instruction of any Supplier (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 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 its *consultants*, including electronic media editions; or

2. reuse any 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 adaptation by Engineer.

B. The prohibitions 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. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by 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

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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

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 known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the 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 officers, directors, members, partners, employees, agents, consultants, or subcontractors 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 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

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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, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall 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 provided by others; 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

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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:* The Supplementary Conditions identify those reports and *drawings* known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the 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 officers, directors, members, partners, employees, agents, consultants, or subcontractors 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. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

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 written notice to Contractor: (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.

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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, members, 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, members, 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

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 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 or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

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 and loss payee identified

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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 and loss payee 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.

C. Failure of Owner to demand such certificates or other evidence of *Contractor's* full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect *Contractor*.

E. The insurance *and* insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

A. Contractor shall purchase and maintain such 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, be written on an occurrence basis, include as additional insureds (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, members, 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 contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

4. 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);

5. 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

6. include completed operations coverage:

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a. Such insurance shall remain in effect for two years after final payment.

b. 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, members, 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 a loss payee;

2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, 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 that 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 loss payee to whom a certificate of insurance has been issued.

B. Owner shall purchase and maintain such equipment breakdown 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, members, 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 a loss payee.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this 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 loss payee 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 this *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

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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 as loss payees (and the officers, directors, members, 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 loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, 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 as loss payees (and the officers, directors, members, 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, members, 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, members, 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 loss payees, 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

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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

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.

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.

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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; and

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

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 if 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 by 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 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 incorporation or use of the proposed substitute item in connection

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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; and

4) 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 a Change Order in the case of a substitute and 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 so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable 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

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2. shall 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 a loss payee 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, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, 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, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors 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 specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, 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

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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 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, members, 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. Such responsibility does not relieve Subcontractors of their

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responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. 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. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

D. Contractor shall inform Owner and Engineer of the specific *requirements* of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. 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 Drawings or Specifications or to the acts or omissions of Owner or Engineer 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).

F. 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 accepted 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,

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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:

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:

a. 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;

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

c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

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

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 Drawings 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.

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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 officers, directors, members, partners, employees, agents, consultants, and subcontractors 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, members, 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 officers, directors, members, partners, employees, agents, consultants, or subcontractors 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, members, 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.

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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.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or through 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, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and 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 such work; provided, however, that Contractor may cut or alter others' 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

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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 wrongful actions or inactions.

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

ARTICLE 8 – OWNER'S RESPONSIBILITIES

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 with respect to 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 relating to existing surface or subsurface structures at the Site.

8.06 *Insurance*

A. Owner's responsibilities, if any, with 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 with 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. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

8.12 *Compliance with Safety Program*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed pursuant to Paragraph 6.13.D.

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ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

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.

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

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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 believes 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.

9.10 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

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).

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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.D.

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 the provisions of any bond require notice to be given to a surety 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), 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 Times 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.

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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

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 not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:

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 on the Work. 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, as imposed by Laws and Regulations.

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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, express and courier services, 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, expediters, 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.

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

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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 to 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 Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at

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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 their officers, directors, members, partners, employees, agents, consultants, or subcontractors 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

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. 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, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's

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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 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, Contractor shall, if requested by Engineer, uncover such Work 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.

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13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of written 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 for 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

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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

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 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:

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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, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and 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. 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

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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 remedies the reasons for such action.

3. Upon a subsequent determination 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 and subject to interest as provided in the Agreement.

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 remove its property and 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, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D 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.

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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.6;

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 might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, 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

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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

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 repeated 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.

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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

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

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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 the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

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*.

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SUPPLEMENTARY CONDITIONS
OF THE
CONSTRUCTION CONTRACT

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SUPPLEMENTARY CONDITIONS

Prepared for the City of Gautier

GENERAL

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. C-700, 2007 Edition) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the same meanings stated below, which are applicable to both the singular and plural thereof.

The Contractor's attention is directed to Division 1, GENERAL REQUIREMENTS, which contains other directions pertinent to the project.

SPECIFIC COMMENTS

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

SC-1.01.A.19. *Engineer* -- ADD the following language at the end of the last sentence in Paragraph 1.01.A.19:

Wherever in these Contract Documents the word "Engineer" or "E/A" or "A/E" appears, it shall be understood to mean the Engineer, Seymour Engineering, PLLC, and their authorized representatives, acting either directly or indirectly as authorized agents of the Owner.

SC-1.01.A.29. *Owner* -- ADD the following language at the end of the last sentence in Paragraph 1.01.A.29:

Whenever in these Contract Documents the word "Owner" appears, it shall be understood to mean the City of Gautier acting by and through their official minutes, and their authorized representatives.

SC-1.01.A.44. *Substantial Completion* – AMEND the language in the first sentence of Paragraph 1.01.A.44 to read as follows:

CHANGE the language from “in the opinion of Engineer,” to “in the opinion of the Engineer and Owner,”

ARTICLE 2 – PRELIMINARY MATTERS

SC-2.01.B *Evidence of Insurance* DELETE Paragraphs and 2.01.B in its entirety and INSERT the following in its place:

B. Before any Work at the Site is started, Contractor shall deliver to Owner, 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 is required to purchase and maintain in accordance with Article 5.

SC-2.02 *Copies of Documents* AMEND the language in the first sentence in Paragraph 2.02.A to read as follows:

CHANGE the language from “up to ten” to “up to three unless otherwise noted in Article 4”.

SC-2.03 *Commencement of Contract Times; Notice to Proceed* DELETE the last sentence in its entirety.

SC-2.06.B *Preconstruction Conference; Designation of Authorized Representative* AMEND the language in the second sentence in Paragraph 2.06.B to read as follows:

"Contractor's representative shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of Contractor. Owner's representative is authorized to act as a liaison with respect to the Project."

SC-2.07 ***Initial Acceptance of Schedules*** ADD the following new language at the end of Paragraph 2.07.A.2:

The requirements for specification Section 01300 - Submittals During Construction shall also be met prior to accepting the Schedule of Submittals.

SC-2.08 ***Narrative Report Outline*** ADD the following new paragraph immediately following Paragraph 2.07:

SC-2.08 A narrative report as outlined in Specification section 01311 shall be required and shall accompany all Payment Applications prior to approval.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

SC-3.03.A ***Reporting Discrepancies*** Add this sentence to the end of Paragraph 3.03A.1:

1. Even though Contractor is required to notify Engineer as to possible quantity differences, there shall be no price adjustment given to the Contractor as a result of any variation between the estimated quantities and the actual quantities necessary to complete the required work.

SC-3.03.B ***Resolving Discrepancies*** ADD the following new language at the end of this section:

c. Whenever the Contract Documents contain contradictions or discrepancies within the document, the most costly means or method shall be applied.

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

SC-4.01.A ***Availability of Lands*** DELETE the last sentence.

SC-4.01.B ***Availability of Lands*** DELETE this paragraph in its entirety.

SC-4.02 ***Subsurface and Physical Conditions*** DELETE Paragraph 4.02.A and Paragraph 4.02.B in their entirety and REPLACE 4.02A.1and 4.02B.1 with the following:

A.1. Subsurface data known to Owner at the time of considering said project may have changed as a result of weather conditions, regular marine traffic, incidental work within the area, expansion of marsh grasses and submerged aquatic vegetations, etc. Any such change or a combination of change could present different conditions thus have an impact on the quantity of dredge material necessary to complete the required work and comply with all permit requirements.

B.1. Technical data is advisory only and Contractor is solely responsible for the accuracy of any data used for their field assessment and evaluation of site conditions of required work to be completed.

SC-4.02.C ***Site Surveys*** ADD the following new paragraph immediately after Paragraph 4.02.B:

C. *Site Surveys:* Site survey information has been compiled from past records and limited field investigations and although stated with as much accuracy as possible, may contain errors or discrepancies. Contractor shall perform investigations as necessary to accomplish the Work. Any unknown item encountered that impacts the Work shall be handled under Article 4.03.

SC-4.03.C.1 ***Possible Price and Times Adjustments*** DELETE Paragraph 4.03C Possible Price and Times Adjustments in its entirety and REPLACE with the following:

4.03C. Contractor may only be entitled to an adjustment in price or time due to abnormal weather conditions or other conditions when such claim is validated by Engineer. However, Contractor will not be entitled to increase in price due to any variations in estimated to completed dredge quantities.

SC-4.04.B.2 ***Underground Facilities; Not Shown or Indicated*** AMEND the language in the second sentence of paragraph 4.04.B.2 to read as follows:

CHANGE the language from "An equitable adjustment shall be made in the Contract Price…" to "An equitable adjustment may be made in the Contract Price…".

SC-4.05 ***Reference Points*** AMEND the language in the second sentence of Paragraph 4.05.A to read as follows:

CHANGE the language from "without prior written approval of Owner" to "without prior written approval of Owner and Engineer".

SC-4.06 ***Hazardous Environmental Conditions at Site*** DELETE Paragraphs 4.06.A and 4.06.B in their entirety and INSERT the following in their place:

A. No reports or drawings of hazardous conditions at the site are known to the Owner or Engineer.

B. Not used.

SC-4.06.G ***Hazardous Environmental Conditions at Site*** **DELETE Paragraphs 4.06.G in its entirety.**

SC-4.07 ***Site Investigation and Representation*** ADD the following new paragraph immediately after Paragraph 4.06:

SC-4.07 *Site Investigation and Representation*

The Contractor acknowledges that he has satisfied himself as to the nature and location of the Work; the general and local conditions, particularly those bearing upon availability of transportation, disposal, handling and storage of materials; availability of labor, water, electric power, and roads; uncertainties of weather, river stages, or similar physical conditions at the site; the conformation and conditions of the ground; the character of equipment and facilities needed preliminary to and during the prosecution of the work; and all other matters which can in any affect the Work or the cost thereof under this Contract. The Contractor further acknowledges subject to conditions in Section 4.02 that he has satisfied himself as to the character, quality, and quantity of surface and subsurface materials and groundwater to be encountered from inspecting the site. Any failure by the Contractor to acquaint himself with all the available information will not relieve him from responsibility for properly estimating the difficulty or cost of successfully performing the Work. Neither the Owner nor the Engineer assumes responsibility for any conclusion or interpretation made by the Contractor.

ARTICLE 5 – BONDS AND INSURANCE

SC-5.03.B ***Certificates of Insurance*** DELETE Paragraph 5.03.B in its entirety.

SC-5.03 ***Certificates of Insurance*** ADD the following new paragraph immediately after Paragraph 5.03.E:

F. The Contractor shall be required to submit a Certificate of Insurance with every pay application; or, no later than every thirty (30) days for the term of Contract. If an approved Certificate of Insurance is not included with the pay application, then it will be considered non-compliant with the Contract Documents and returned to the Contractor.

SC-5.04 ***Contractor's Liability Insurance*** ADD the following new paragraph immediately after Paragraph 5.04.B:

C. The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverages for not less than the following amounts or greater where required by Laws and Regulations:

1. Worker's Compensation, and related coverage under Paragraph 5.04.A.1 and A.2 of the General Conditions:

   a. Statutory

   b. Applicable Federal: Statutory (e.g. Longshoreman's)

   c. Employer's Liability: $100,000 or Statutory

2. Contractor's General Liability under Paragraph 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:

   a. General Aggregate: $ 1,000,000.00

   b. Products- Completed Operations Aggregate $ 1,000,000.00

   c. Personal and Advertising Injury $ 1,000,000.00

   d. Each Occurrence (Bodily Injury and Property Damage) $ 1,000,000.00

   e. Property Damage liability insurance will provide Explosion, Collapse and Under-ground coverages where applicable.

   f. Excess or Umbrella Liability

      1) General Aggregate $ 1,000,000.00

      2) Each Occurrence $ 1,000,000.00

3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:

   a. Bodily Injury:

      Each Person $ 1,000,000.00

      Each Accident $ 1,000,000.00

   b. Property Damage:

      Each Accident $ 1,000,000.00

   c. Combined Single:

      Limit of $ 1,000,000.00

4. The Contractual Liability coverage required by Paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following:

a. Bodily Injury:

Each Person	$ 1,000,000.00

b. Property Damage:

Each Accident	$ 1,000,000.00
Annual Aggregate	$ 1,000,000.00

5. The list of names, other persons, or entities to be included on the policy as additional insured are as per Paragraph 5.11.

SC-5.06.A Property *Insurance* DELETE Paragraph 5.06.A in its entirety and INSERT the following in its place:

A. When available, Contractor shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof.

1. This insurance shall:

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

b. in addition to the individuals and entities specified, include additional insured per Paragraph 5.11.

c. 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 and damage to the Work, temporary buildings, falsework, 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 that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

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

e. 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;

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

g. include testing and start up; and

h. 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.

2. Contractor shall be responsible for any deductible or self-insured retention.

3. The policies of insurance required to be purchased and maintained by Contractor in accordance with this Paragraph SC-5.06.A shall comply with the requirements of paragraph 5.06.C of the General Conditions.

SC-5.06.B DELETE this article in its entirety.

SC-5.06.E DELETE this Paragraph in its entirety.

SC-5.07.A *Waiver of Rights* DELETE the third and fourth sentences in their entirety.

SC-5.07.B DELETE this Paragraph in its entirety.

SC-5.11 *Additional Insured* ADD the following new paragraph immediately after Paragraph 5.10.

SC- 5.11 *Additional Insured*

A. Where applicable, all insurance policies shall name the Owner and Engineer as herein before defined as additional insured.

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITY

SC-6.06 *Concerning Subcontractor's, Suppliers, and Others* ADD a new paragraph immediately after Paragraph 6.06.G:

H. Owner or Engineer may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on Work performed for Contractor by a particular Subcontractor or Supplier.

SC-6.07.B *Patent Fees and Royalties* DELETE this paragraph in its entirety.

SC-6.12 *Record Documents* ADD a new paragraph immediately after Paragraph 6.12.A:

B. Owner may withhold progress payments until record documents are properly updated. Final payment may not be made until all record documents are accepted in writing by Owner.

SC-6.17 *Shop Drawings and Samples* ADD the following new paragraphs immediately after Paragraph 6.17.E:

F. Contractor shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing subsequent submittals of Shop Drawings, samples or other items requiring approval and Contractor shall reimburse Owner for Engineer's charges for such time.

G. In the event that Contractor requests a substitution for a previously approved item, Contractor shall reimburse Owner for Engineer's charges for such time unless the need for such substitution is beyond the control of Contractor.

SC-6.19 *Contractor's General Warranty ~~Warrantee~~ and Guarantee* ADD the following new paragraph immediately after Paragraph 6.19.C:

D. Unless additional warranties are included in the technical specifications, the Contractor shall guarantee all Work for a period of one-year following Substantial Completion.

SC-6.20 *Indemnification* DELETE this article in its entirety and INSERT the following in its place:

A. Contractor shall defend, indemnify and hold harmless Owner and Engineer, their agents, servants, employees, officers, directors, members, partners, successors and assigns from actions, causes, suits, costs, claims, damages, expenses and demands whatsoever in law or in equity, (including but not limited to all fees and charges of engineers, architects, and attorneys and all court or other dispute resolution costs), with

respect to, or on account of, any injury, including bodily injury, disability or death, or damages to property, including loss of the use thereof, in any way attributable to or in connection with performance of the Contractor under this Contract.

ARTICLE 7 – OTHER WORK AT SITE

SC-7.04 ***Claims Between Contractors*** ADD a new paragraph immediately after Paragraph 7.03:

SC-7.04 *Claims Between Contractors*

A. Should Contractor cause damage to the work or property of any other contractor at the Site, or should any claim arising out of Contractor's performance of the Work at the Site be made by any other contractor against Contractor, Owner, Engineer, or the construction coordinator, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute by arbitration or at law.

B. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner, Engineer, the construction coordinator and the officers, directors, partners, employees, agents and other consultants and subcontractors of each and any of them from and against all claims, costs, losses and damages (including, but not limited to, fees and charges of engineers, architects, attorneys, and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any other contractor against Owner, Engineer, Engineer's Consultants, or the construction coordinator to the extent said claim is based on or arises out of Contractor's performance of the Work. Should another contractor cause damage to the Work or property of Contractor or should the performance of work by any other contractor at the Site give rise to any other Claim, Contractor shall not institute any action, legal or equitable, against Owner, Engineer, or the construction coordinator or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from Owner, Engineer, or the construction coordinator on account of any such damage or Claim.

C. If Contractor is delayed at any time in performing or furnishing Work by any act or neglect of another contractor, and Owner and Contractor are unable to agree as to the extent of any adjustment in Contract Times attributable thereto, Contractor may make a Claim for an extension of times in accordance with Article 12. An extension of the Contract Times shall be Contractor's exclusive remedy with respect to Owner, Engineer, and construction coordinator for any delay, disruption, interference, or hindrance caused by any other contractor. This paragraph does not prevent recovery from Owner, Engineer, or construction coordinator for activities that are their respective responsibilities.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

SC-8.02 ***Replacement of Engineer*** AMEND the language of Paragraph 8.02.A to read as follows: INSERT "resignation or" immediately before "termination". DELETE "to whom Contractor makes no reasonable objection,".

SC-8.11 ***Evidence of Financial Arrangements*** Add the following new paragraph immediately after Paragraph 8.11.A:

B. On request of Contractor prior to the execution of any Change Order involving a significant increase in the Contract Price, Owner shall furnish to Contractor reasonable evidence that adequate financial arrangements have been made by Owner to enable Owner to fulfil the increased financial obligations to be undertaken by Owner as a result of such Change Order.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

SC-9.03 ***Project Representative*** AMEND the language in the second sentence of Paragraph 9.03.A to read as follows:

DELETE the language "the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in".

SC-9.07A *Determination for Unit Price Work* AMEND the language in the first sentence of Paragraph 9.07 to read as follows:

"Engineer will determine the actual quantities and classifications of completed Unit Price Work performed by Contractor."

SC-9.08.B *Decisions on Requirements of Contract Documents and Acceptability of Work* AMEND the language in the first sentence of Paragraph 9.08.B to read as follows:

"Engineer will, with reasonable promptness, render a written recommendation or decision on the issue referred."

SC-9.08.B *Decisions on Requirements of Contract Documents and Acceptability of Work* AMEND the language in the last sentence of Paragraph 9.08.B to read as follows:

"The date of the Engineer's recommendation / decision shall be the date it is rendered in writing and provided to both parties."

SC-9.08.C *Decisions on Requirements of Contract Documents and Acceptability of Work* DELETE Paragraph 9.08.C in its entirety and INSERT the following in its place:

"Engineers written recommendation or decision on the issue referred is subject to the provision of Paragraph 10.05."

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

C-10.05.A *Engineer's Decision Required* DELETE the last sentence of Paragraph 10.05.A.

SC-10.05.C Item 1, REPLACE "deny" with "recommend denial of". Item 2, REPLACE "approve" with "recommend approval of".

SC-10.05.E DELETE Paragraph 10.05.E in its entirety and INSERT the following in its place:

"Owner or Contractor may invoke dispute resolution in Article 16 within 30 days of the engineer's recommendation of denial or approval."

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

SC-11.03.B Amend the language in the second sentence of Paragraph 11.03.B as follows:

"*Determinations* of actual quantities and classifications of completed Unit Price Work performed by the Contractor will be made by Engineer subject to the provisions of Paragraph 9.07."

SC-11.03.D DELETE Paragraph 11.03.D in its entirety and INSERT the following in its place:

D. There shall be no increase in price due to a variation in actual dredge quantities from the estimated quantities and any variation shall be the sole responsibility of Contractor in formulation of his bid and shall include any possible variations from estimate.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT ITEMS

No Comment.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTIONS, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

SC-13.03.A ADD the following new sentence immediately after the first sentence of Paragraph 13.03.A:

Timely notice shall be as stated in the appropriate specification and no less than 24 hours prior to scheduling the Work.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

SC-14.02.A.1 ***Application for Payments*** AMEND the language in the first sentence of Paragraph 14.02.A.1 to read as follows:

CHANGE the language from "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 an accompanied by such supporting documentation as is required by the Contract Documents. " to "On or before the 20th day of each month, Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed by the 15th of that month, accompanied by such supporting documentation as is required by the Contract Documents."

SC-14.02.A.3 ***Application for Payments*** DELETE Paragraph 14.02.A.3 in its entirety and INSERT the following in its place:

3. The Owner will retain 10% of the amount of each estimate until final completion of the project. On monthly estimates subsequent to the first estimate submitted that includes invoices for stored materials for which payment to the Contractor has been made, there shall be a signed statement that the invoices have been paid by the Contractor.

   The statement shall read as follows:

   This is to certify that payment has been made for invoiced materials included in previous monthly estimate no._____ thru _____.

   Signed: _____

   In the event that such statement is not furnished or the manufacturers or material suppliers notify the Owner in writing that they have not been paid for materials included on previous estimates, the Owner may reduce payment in accordance with Paragraph 14.02.

SC-14.02.C ***Payment Becomes Due*** AMEND the language in the first sentence of Paragraph 14.02.C.1 to read as follows:

CHANGE the language from "Ten days after presentation of the Application for Payment to Owner," to "Ten days after approval of the Application for Payment by Owner".

SC-14.07.C.1 ***Payment Becomes Due*** AMEND the language in the first sentence of Paragraph 14.07.C.1 to read as follows:

CHANGE the language from "Thirty days" to "Sixty days"

SC-14.09.A.1 ***Waiver of Claims*** DELETE this article in its entirety.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

No comment.

SC-15.02.C ***Owner May Terminate for Cause*** DELETE the second sentence of Paragraph 15.02.C.

SC-15.02.D DELETE in its entirety.

SC-15.02.F DELETE in its entirety and REPLACE with: "The termination provisions of the Standard General Conditions of the Construction Contract and the Supplementary Conditions of the Construction Contract shall supercede the termination procedures of any performance bond provided under the provisions of paragraph 5.01A."

ARTICLE 16 – DISPUTE RESOLUTION

SC-16.01 Delete Paragraph 16.01 in its entirety and insert the following in its place:

SC-16.01 Meet to Confer and Negotiate

A. Within 30 days of notice of Engineers recommended action under 10.05C3 or 10.05D, Owner or Contractor may give to the other party written notice of intent to submit the Claim to a process of bilateral negotiations as set forth below

B. Within 30 days of the delivery of such notice, Owner and Contractor shall meet and confer regarding the Claim. A good-faith effort to negotiate resolution shall be made by both parties.

C. If the negotiations contemplated by Paragraph SC-16.01.B are unsuccessful, management representatives of Owner and Contractor at least one tier above the individuals who met under SC16.01.B shall meet, confer, and negotiate within 30 days of the closure of the unsuccessful negotiations.

D. If the Claim is not resolved by negotiation, Engineer's action under Paragraph 10.05C or a denial pursuant to Paragraphs 10.05C3 or 10.05D may be submitted to a court of competent jurisdiction to be determined or the parties may agree to submit the claim to another dispute resolution process

E. Nothing in this article shall be deemed to prohibit or interfere with the rights of the parties to file a court action where necessary to preserve their rights to proceed with litigation.

ARTICLE 17 – MISCELLANEOUS

SC-17.05 ***Controlling Law*** DELETE Paragraph 17.05.A in its entirety and INSERT the following in its place:

A. The terms and conditions of this Contract shall be construed and interpreted under, and all respective rights and duties shall be governed by, the laws of the State of Mississippi. Wherever applicable, each provision of these Contract Documents shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of these Contract Documents shall be prohibited by or invalid under applicable law, such provisions shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of these Contract Documents.

B. This Contract shall not be construed more strictly against one party than the other merely by virtue of the fact that it may have been prepared by one of the parties.

Councilwoman Martin made the motion to approve Change Order No. 3 for the Bemis Avenue Sewer Project, as presented. Councilman Vaughan seconded the motion. The vote was carried unanimously.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 233-2019

WHEREAS, the City of Gautier has been awarded $590,000 in CDBG Public Facilities funding to support the Bemis Avenue Sewer Project; and

WHEREAS, Change Order No. 3 would cover the cost of paving the entire length of Bemis Avenue. It was contemplated that after cutting sections of Bemis to perform sewer work, that the entire road would be overlaid in order to provide a uniform appearance rather than having multiple patched sections. The section of the road that connects to Holly Drive was overlooked; therefore, this change order is to provide that the entire road be repaved, including the missed section, so it will have uniformity; and

WHEREAS, the change order will increase the contract amount by $10,653 (from $649,469 to $660,122) and will be paid from City funds; and

WHEREAS, Seymour Engineering and Mississippi Development Authority (MDA) have reviewed the change order and recommend approval;

WHEREAS, the Mayor and Members of Council hereby find it is in the best interest of the City of Gautier to approve the change order; and

WHEREAS, the Mayor and Council Members find, consistent with fact, that this change order is necessary and incidental to the completion of the work as originally bid, is commercially reasonable, is not made to circumvent the public purchasing statutes, and that the increase in costs is reasonable;

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that Change Order No.3 for the Bemis Avenue Sewer Project is hereby approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

MAYOR

ATTEST:

CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager

From: April Stennett, Grants & Projects Director

Date: November 5, 2019

Subject: Bemis Avenue Sewer Project — Change Order No. 3

REQUEST:
The Grants and Projects Department requests that City Council approve Change Order No. 3 for the Bemis Avenue Sewer Project (CDBG Project # 1134-18-192-PF-01).

BACKGROUND:
The City of Gautier has been awarded $590,000 in CDBG Public Facilities funding to support the Bemis Avenue Sewer Project. The Community Development Block Grant Program provides for a maximum grant amount per project of $600,000 for cities and counties with a population greater than 3,500 people.

DISCUSSION:
Change Order No. 3 would cover the cost of paving the entire length of Bemis Avenue. It was contemplated that after cutting sections of Bemis to perform sewer work, that the entire road would be overlaid in order to provide a uniform appearance rather than having multiple patched sections. The section of the road that connects to Holly Drive was overlooked; therefore, this change order is to provide that the entire road be repaved, including the missed section, so it will have uniform appearance.

The change order will increase the contract amount by $10,653 and will be paid from City funds. The contract will increase from $649,469 to $660,122.

Seymour Engineering has reviewed the change order and recommends approval.

RECOMMENDATION:
The Grants and Projects Department recommends that City Council approve Change Order No. 3 for the Bemis Avenue Sewer Project.

The City Council may:
1. Approve Change Order No. 3 as presented; or
2. Not approve Change Order No. 3 as presented.

ATTACHMENT(S):
1. Change Order No. 3

Change Order

OWNER:
The City of Gautier
3330 US-90
Gautier, MS 39553

CHANGE ORDER NUMBER: 3

DATE: November 4, 2019

CONTRACTOR:
Magnolia Construction Company, L.L.C.
P.O. Box 66096
Baton Rouge, LA 70896

ENGINEER: Seymour Engineering, PLLC

PROJECT TITLE: Bemis Avenue Sewer Improvements

SUMMARY:

This Change Order serves to increase the contract amount.

This is a change order to cover the cost for additional asphalt paving on Bemis Avenue. There was miscommunication between the city and the engineer when originally determining where to repave on Bemis Avenue. The city wants to also repave the section of Bemis Avenue that connects to Holly Drive measuring about 340 feet long. This will cost an additional $10,653.00.

The Change Order will increase the contract amount by $10,653.00.

THE CONTRACT AMOUNT IS AMENDED AS SHOWN ON THE NEXT PAGE:

TOTAL THIS CHANGE ORDER
Not valid until signed by the Owner, Engineer and Contractor.

The original Contract Sum	$	641,514.00
Net change by previously authorized Change Orders	$	7,955.00
The Contract Sum prior to this Change Order was	$	649,469.00
The Contract Sum will now Change (+)	$	10,653.00
The new Contract Sum including this Change Order will be	$	660,122.00

The Contract Time will not be changed
The Date of Substantial Completion as of the date of this Change Order therefore is
December 2, 2019

CONTRACTOR	ENGINEER	OWNER
By: [signature]	By: Sarah McLellan, E.I.	By: _____
Date: 11/4/19	Date: 11/4/2019	Date: _____

Councilman Colledge requested to pull Consent Agenda Item #2 regarding a correction to the Recessed Council Meeting Minutes held October 21, 2019.

Councilwoman Martin made the motion to approve Consent Agenda Items 1 and 3-16, as presented. Councilman Vaughan seconded the motion. The vote was carried unanimously.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 234-2019

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that Consent Agenda Items 1 and 3-16 are hereby approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi the following:

RESOLUTION NUMBER 036-2019

RESOLUTION OF THE CITY OF GAUTIER, MISSISSIPPI REMOVING EQUIPMENT FROM THE INVENTORY OF GAUTIER FIRE DEPARTMENT AND TO DECLARE SUCH EQUIPMENT SURPLUS

WHEREAS, the Gautier Planning Department is requesting the following equipment be removed from inventory and declared surplus:

ITEM	**INVENTORY NUMBER**
Canon Image Runner Advance Copier	2736

WHEREAS, the Mayor and Members of the Council have determined that given the age and condition of the equipment, these items have no value, and therefore removal from inventory and declaring surplus is in the best interest of the City of Gautier.

BE IT, THEREFORE, RESOLVED that the Mayor and Council of the City of Gautier, Mississippi has determined that the equipment described above is hereby removed from inventory and declared surplus.

BE IT, FURTHER, RESOLVED that the Council authorizes the City Manager or City Clerk to execute all documents necessary for this purpose.

The motion to approve the foregoing resolution was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

WHEREUPON, the Mayor and Members of the Council of the City of Gautier, Mississippi, declared the motion carried and the Resolution adopted this the 5th, November, 2019.

_____
MAYOR

ATTEST:

_____
CITY CLERK

To: Paula Yancey, City Manager

From: Derek McCoy, Deputy Fire Chief

Date: 10/15/2019

Subject: Resolution removing office equipment from fire department inventory and declaring equipment surplus.

REQUEST:

City Council authorization is requested for the City Clerk department to remove the following office equipment from the City of Gautier's inventory and declare the equipment surplus. Canon Image Runner Advance Copier, SN (21) PZX25643, and Gautier Inventory #2736.

BACKGROUND:

The Fire Department has determined that, given the age and condition being unrepairable and inoperable of the above listed equipment, its removal from inventory is in the best interest of the City of Gautier.

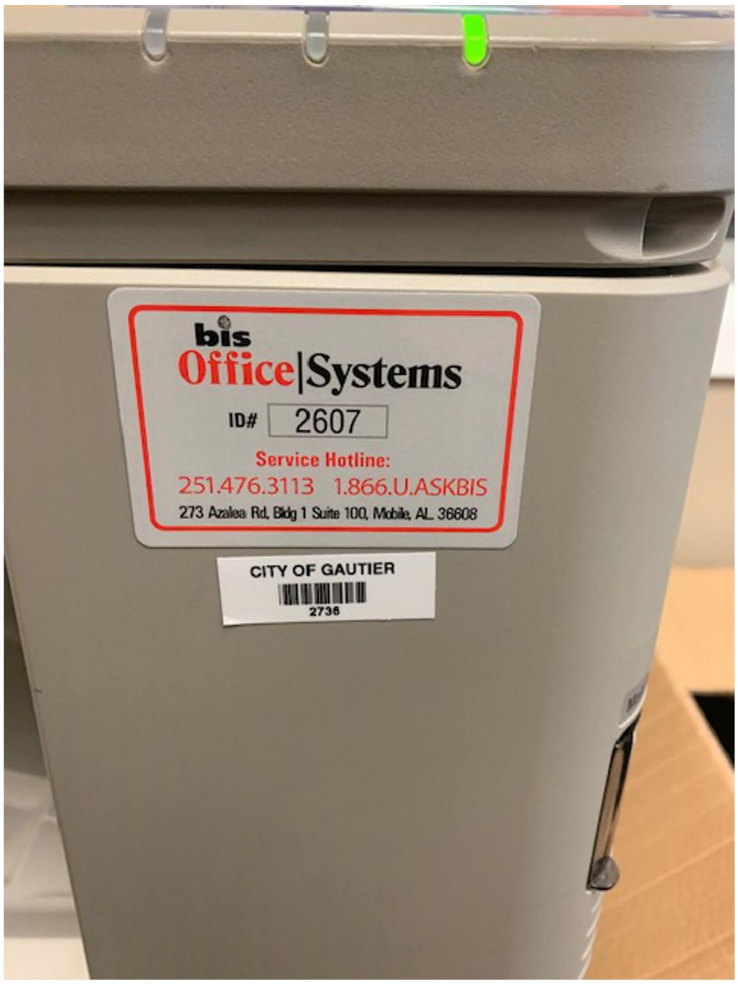
RECOMMENDATION:

Fire Department staff recommends that City Council authorize the removal of this property from inventory until such time as it can be deemed surplus.

ATTACHMENTS:

1. FD Surplus Equipment Photos

Canon


bis
Office|Systems
ID# 2607
Service Hotline:
251.476.3113 1.866.U.ASKBIS
273 Azalea Rd, Bldg 1 Suite 100, Mobile, AL 36608
CITY OF GAUTIER
2736

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 235-2019

WHEREAS, Miss. Code Ann. 27-17-501 requires the governing authority of municipalities to receive a report of the privilege licenses issued during the preceding month; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the Privilege License Reports for July, August and September 2019 is hereby received.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by the Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

		City of Gautier		
		Business Registry		
		Jul-19		
Acct#	**LICENSE**	**BUSINESS NAME/OWNER**	**AMOUNT**	**STATUS**
650	2020-07-0006454	Magnolia Inn of Gautier	$30.00	Current
998	2020-07-0006455	Hanger Prosthetic & Orthotics	$20.00	Current
649	2020-07-0006456	Batson & Brown, INC.	$30.00	Current
1587	2020-07-0006457	Tiffany Bahn/ GAMP	$20.00	New Business
1588	2020-07-0006458	Cletus F.McNease/ GAMP	$20.00	New Business
1589	2020-07-0006459	Angela Jordan/ GAMP	$20.00	New Business
1002	2020-07-0006460	Stuart's Spicy Business	$20.00	Current
1003	2020-07-0006461	Ad2, Inc.	$20.00	Current
1590	2020-07-0006462	M&M Bank	$30.00	New Business
653	2020-07-0006463	College Villa Apartments	$20.00	Current
1330	2020-07-0006464	Circle K Stores, Inc.	$95.00	Current
1591	2020-07-0006465	April Richardson/ GAMP	$20.00	New Business
1592	2020-07-0006466	Debera Tolbert/ GAMP	$20.00	New Business
1593	2020-07-0006467	John Tavares/ GAMP	$20.00	New Business
1594	2020-07-0006468	Glenda Nelson/ GAMP	$20.00	New Business
1595	2020-07-0006469	Lionel V. Clark/ GAMP	$20.00	New Business
1596	2020-07-0006470	Joyce Terry/ GAMP	$20.00	New Business
1597	2020-07-0006471	Tom Orton/ GAMP	$20.00	New Business
651	2020-07-0006472	Canine Clips	$20.00	Current
1598	2020-07-0006473	Smart Homes Pros, INC- Security Systems	$250.00	Transient Vendor
1525	2020-07-0006474	Casual Cuts	$20.00	Current
917	2020-05-0006475	H & R Cabinets	$22.20	Delinquent
1599	2020-07-0006476	Maria Reed/ GAMP	$20.00	New Business
1373	2020-07-0006478	National Entertainment Network, LLC	$70.00	Current
1491	Closed	Cole's Kitchen	$0.00	Closed
1489	Closed	C & S Enterprises	$0.00	Closed
1493	2020-07-0006479	NY Liquor	$35.00	Current
617	2020-06-0006480	Glass-Pac Industries	$22.00	Delinquent
1601	2020-07-0006481	Darren Driggers/ GAMP	$20.00	New Business
1602	2020-07-0006482	Frances Smith/ GAMP	$20.00	New Business
1603	2020-07-0006483	Jacquelin Daniels/ GAMP	$20.00	New Business
1604	2020-07-0006484	Lorena Smith/ GAMP	$20.00	New Business
1605	2020-07-0006485	Bill (William) Lester/ GAMP	$20.00	New Business
324	2020-03-0006486	Faithfully Yours Learning Center	$22.60	Delinquent
1606	2020-07-0006487	MS Coast Garment Printing, LLC/ DBA, MC	$20.00	New Business
924	2020-07-0006488	Furlan's Marine Inc.	$20.00	Current
1500	Closed	Evol Dance Studio	$0.00	Closed
1224	Closed	C&M Mortgage Field Services	$0.00	Closed
778	2020-07-0006489	Collison Depot	$20.00	Current
1607	2020-07-0006490	Patrick's Fine Spirit	$45.00	New Business

1608	2020-07-0006491	Rita L. Wirtz/ GAMP	$20.00	New Business
1609	2020-07-0006492	Nellie B. Broadnax	$20.00	New Business
1610	2020-07-0006493	Technical Assistance Group, Angela George/	$20.00	New Business
1437	2020-07-0006494	Liberated Services, LLC	$20.00	Current
1490	2020-07-0006495	Singing River Apartment	$20.00	Current
1446	2020-09-0006496	Home Port Quick Stop	$40.00	Current
1329	2020-07-0006497	World Acceptance Corp.	$20.00	Current
1227	2020-08-0006498	Affordable Auto Glass	$20.00	Current
1611	2020-07-0006499	Mitchells Traveling Clothes/ GAMP	$20.00	New Business
1612	2020-07-0006500	Bernard & Pattie Suthoff/ GAMP	$20.00	New Business
1613	2020-07-0006501	Bobbie's Booth/ GAMP	$20.00	New Business
1498	2020-08-0006502	Iglesia Cristiana Caminando	$20.00	Current
569	Closed	Floor Trader	$0.00	Closed
1614	2020-07-0006503	CBD Medical Center	$20.00	New Business
1162	2020-07-0006504	Coral Boutique	$20.00	Current
1444	2020-08-0006505	Jelly Doughnuts & Kolaches	$20.00	Current
1445	2020-08-0006506	A.M.P Designs	$20.00	Current
1327	2020-07-0006507	Dollar General Corporation	$70.00	Current
780	2020-07-0006508	Sailmaker's Supply	$20.00	Current
654	2020-07-0006509	Delo's Heavenly House of Coffee	$20.00	Current
1084	2020-07-0006510	Tiki Restaurant & Lounge	$51.00	Current
331	2020-07-0006511	The Carpet Mart	$20.00	Current
		Total	**$1,672.80**	
		New Business		**26**
		Transient Vendor		**1**
		Closed Business		**5**
		Delinquent Renewals Issued		**3**

* GAMP - Great American Market Place*

		City of Gautier		
		Business Registry		
		Aug-19		
ACCOUNT #	**LICENSE #**	**BUSINESS NAME/OWNER**	**AMOUNT**	**STATUS**
1494	2020-08-0006512	Magnolia Oaks Apartments	$30.00	Current
1615	2020-08-0006513	Gulf Coast Fitness	$20.00	New Business
1616	2020-08-0006514	Greater Teams Ent &Promotions/ GAMP	$20.00	New Business
786	2020-08-0006515	Gautier Thrift Store	$20.00	Current
1276	2020-08-0006516	Ice Cream & More, LLC	$20.00	Current
680	2020-08-0006517	Country Gentleman Restaurant	$51.00	Current
565	2020-08-0006518	Baywood Travel	$20.00	Current
1496	2020-08-0006519	Triple J's Auto Repair	$20.00	Current
1617	2020-08-0006520	Fast Pace Urgent Care	$30.00	New Business
1499	2020-08-0006521	Bunny Bread Retail Thrift Store	$50.00	Current
1443	2020-08-0006522	Austin Life Consultants	$20.00	Current
1618	2020-08-0006523	Vernis D' Or	$20.00	New Business
573	2020-08-0006524	McGee Construction	$20.00	Current
1381	2020-08-0006525	South MS Home Health, Inc	$141.00	Current
1091	2020-08-0006526	Tscheuoin Enterprises, LLC	$20.00	Current
1092	2020-08-0006527	The Disability Consulting Clinic, LLC	$20.00	Current
1281	2020-08-0006528	Keesler Federal Credit Union	$30.00	Current
1495	2020-08-0006529	Rogers Lawn Care	$20.00	Current
685	2020-08-0006530	C West Realty, LLC	$20.00	Current
1006	2020-08-0006531	Infinity & Beyond Hair Essentials	$20.00	Current
611	2020-06-0006532	Crown of Glory Beauty Salon	$22.20	Delinquent
1472	2020-04-0006533	La La's Luv/ GAMP	$22.60	Delinquent
1497	Closed	Busby Construction	$0.00	Closed
580	2020-08-0006534	Preferred Painters	$20.00	Current
1452	Closed	DSL Auto Sales	$0.00	Closed
1501	2020-09-0006535	Wild Lee's Auto Sales	$20.00	Current
705	Closed	The Dental Center of Gautier	$0.00	Closed
1282	2020-09-0006536	Jennart Ad Design, LLC	$20.00	Current
566	2020-08-0006537	Burnham McKinney Pharmacy	$62.50	Current
1170	2020-09-0006538	Grand View Security, LLC	$20.00	Current
1280	2020-08-0006539	Landry & Associates Realty	$20.00	Current
1334	2020-09-0006540	Food Express, LLC	$40.00	Current
862	2020-08-0006541	Studio 1 Productions	$20.00	Current
1378	2020-08-0006542	Mary's Alterations & Designs	$20.00	Current
1383	2020-09-0006543	B & D Plastics	$150.00	Current
857	2020-08-0006544	All God's Children Learning Center	$30.00	Currnet
		Total	**$1,079.30**	
		New Business	**4**	
		Transient Vendor	**0**	
		Closed Business	**3**	
		Delinquent Renewals Issued	**2**	

*GAMP - Great American Market Place

		City of Gautier		
		Business Registry		
		Sep-19		
ACCOUNT#	**LICENSE #**	**BUSINESS NAME/OWNER**	**AMOUNT**	**STATUS**
791	2020-09-0006545	Walgreens	$580.00	Current
1231	2020-09-0006546	Jeffery L. Knight Family Dentistry	$20.00	Current
1619	2020-09-0006547	Jaxco Cheerleading Academy	$20.00	New Business
532	2020-09-0006548	O'Bryant - O'Keefe Funeral Services	$20.00	Current
870	2020-09-0006549	O'Reilly Auto Parts	$150.00	Current
1243	Closed	Bargain Furniture Store	$0.00	Closed
557	2020-09-0006550	Awesome Maint. & Janitorial	$20.00	Current
1620	2020-09-0006551	Flynn Consulting and Tutoring	$20.00	New Business
1447	2020-09-0006552	State Farm Insurance	$20.00	Current
1336	2020-09-0006553	Martin Bluff Laundromat	$20.00	Current
1621	2020-09-0006554	Aromystically Me/ GAMP	$20.00	New Business
1622	2020-09-0006555	Linda T. Gandy/ GAMP	$20.00	New Business
511	2020-09-0006556	Primo Engineering	$20.00	Current
1623	2020-09-0006557	Smoke Zone	$20.00	New Business
513	2020-09-0006558	McDonalds #5595	$30.00	Current
1384	2020-09-0006559	Just Relax Theraputic Massage	$20.00	Current
516	2020-09-0006560	Conrad Yelvington Distributors	$30.00	Current
1226	2020-09-0006561	Preventive Medicine & Primary Care	$22.00	Delinquent
935	2020-09-0006562	Salt Water Bed & Breakfast	$20.00	Current
1094	2020-09-0006563	Hot Nails	$30.00	Current
792	2020-09-0006564	Santa Maria RV Resort & Marina	$20.00	Current
1449	2020-09-0006565	Happy Noodle Asian Cuisine	$35.00	Current
867	2020-09-0006566	1st Choice Storage	$20.00	Current
524	2020-09-0006567	McClure's Comfort Zone	$20.00	Current
533	2020-09-0006568	Gautier Automotive	$20.00	Current
261	2020-09-0006569	Children's Clinic of Gautier	$20.00	Current
879	2020-10-0006570	Hurd Realty	$20.00	Current
1385	2020-09-0006571	Beles On the Bayou, Indian Point	$45.00	Current
5	2020-10-0006572	Air Masters Mechanical, Inc	$150.00	Current
1502	2020-09-0006573	A Kut Above Tree Services Inc.	$20.00	Current
936	Closed	Heflin Ice Cream	$0.00	Closed
1503	2020-09-0006574	Hammer & Stain MS Gulf Coast	$20.00	Current
1011	2020-09-0006575	DRM Homes, LLC	$20.00	Current
		Total	**$1,512.00**	
		New Business	**5**	
		Transient Vendor	**0**	
		Closed Business	**2**	
		Delinquent Renewals Issued	**1**	

GAMP Great American Market Place

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi the following:

RESOLUTION NUMBER 037-2019

RESOLUTION OF THE CITY OF GAUTIER, MISSISSIPPI REMOVING POLICE DEPARTMENT VEHICLES FROM INVENTORY, AND DECLARING VEHICLES SURPLUS

WHEREAS, the Gautier Police Department is requesting the following items be declared surplus and removed from inventory and insurance: Four (4) 2007 Ford Crown Victoria vehicles:

Vin # 2FAFP71W37X115811 inventory #1172,
Vin # 2FAFP71W27X112814 inventory #1154,
Vin # 2FAFP71W27X115802 inventory #1495, and
Vin # 2FAFP71W17X115807 inventory #1501; and

WHEREAS, the Mayor and Members of the Council have determined that, given the age and condition of the vehicles, removal from inventory and insurance, and declaring as surplus is in the best interest of the City of Gautier.

BE IT, THEREFORE, RESOLVED by the Mayor and Council of the City of Gautier, Mississippi that the four (4) 2007 Ford Crown Victoria vehicles are hereby removed from inventory and insurance.

BE IT, FURTHER RESOLVED that said vehicles are declared surplus.

BE IT, FURTHER RESOLVED that the Council authorizes the City Manager or City Clerk to execute all documents necessary for this purpose.

The motion to approve the foregoing resolution was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

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PHIL TORJUSEN, MAYOR

ATTEST:

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CITY CLERK

Passed and Adopted by the Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To:	Paula Yancey, City Manager
From:	Danny Selover, Police
Date:	10/22/2019
Subject:	Authorization to remove four (4) Police Department vehicles from inventory, insurance and declare them as surplus.

REQUEST:

City Council authorization is requested by the Gautier Police Department to remove a 2007 Ford Crown Victoria Police Car, VIN 2FAFP71W37X115811 (city inventory control #1172), a 2007 Ford Crown Victoria Police Car, VIN 2FAFP71W27X112804 (city inventory control #1154) a 2007 Ford Crown Victoria Police Car, VIN 2FAFP71W27X115802 (city inventory control #1495), and a 2007 Ford Crown Victoria Police Car, VIN 2FAFP71W17X115807 (city inventory control #1501) from inventory, insurance and authorize the vehicles to be deemed surplus.

BACKGROUND:

The Police Department has determined that, given the age and condition of the vehicles, removal from inventory, insurance and to declare these vehicles surplus is in the best interest of the City of Gautier.

DISCUSSION:

These vehicles were replaced with newer, less mileage Ford Crown Victoria police cars and assigned to our Police reserve unit.

RECOMMENDATION:

Police Department staff recommends that City Council authorize the removal of these four vehicles from inventory, insurance and be declared surplus.

ATTACHMENTS:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi the following:

RESOLUTION NUMBER 038-2019

RESOLUTION OF THE CITY OF GAUTIER, MISSISSIPPI REMOVING POLICE DEPARTMENT ITEMS FROM INVENTORY, AND DECLARING ITEMS RUBBISH

WHEREAS, the Gautier Police Department is requesting the following items be removed from inventory:

Two (2) Whelen strobe light bars with only inventory control numbers – 1497 and 1502.

Twelve (12) Whelen strobe light bars with only serial numbers – 237568, 209944, 65459, 654461, 65487,65481,65462, 64629, 40318, 198266, 40314, and 64650.

Three (3) Whelen strobe light bars with no numbers.

Four (4) Setina prisoner transport cages with only inventory control numbers – 1177, 1160, 1499, and 1504.

Three (3) Setina push bumpers with only inventory control numbers – 1173, 1155, and 1496; and

WHEREAS, the Gautier Police Department is requesting the following items be removed from inventory and disposed of by destruction or, if appropriate, by discarding in the same manner as other municipal solid waste: Seventeen (17) Whelen strobe light bars, Four (4) Setina prisoner transport cages, and Three (3) Setina push bumpers; and

WHEREAS, the Mayor and Members of the Council have determined that, given the age and condition of the equipment, removal from inventory and disposal is in the best interest of the City of Gautier.

BE IT, THEREFORE, RESOLVED by the Mayor and Council of the City of Gautier, Mississippi that the Seventeen (17) Whelen strobe light bars, Four (4) Setina prosioner transport cages and Three (3) Setina push bumpers are hereby removed from inventory and may be disposed of by destruction or, if appropriate, by discarding in the same manner as other municipal solid waste.

BE IT, FURTHER RESOLVED that the Council authorizes the City Manager or City Clerk to execute all documents necessary for this purpose.

The motion to approve the foregoing resolution was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

PHIL TORJUSEN, MAYOR

ATTEST:

CITY CLERK

Passed and Adopted by the Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: Danny Selover, Police
Date: 10/22/2019
Subject: Authorization to remove seventeen (17) Whelen strobe lights, four (4) Setina prisoner transport cages, and three (3) Setina push bumpers from the Police Department inventory.

REQUEST:

City Council authorization is requested to remove seventeen (17) Whelen strobe light bars, four (4) Setina prisoner transport cages, and three (3) Setina push bumbers from the Police Department's inventory.

BACKGROUND:

The Police Department has determined that, given the age and condition of these items, removal from inventory is in the best interest of the City of Gautier. City of Gautier inventory control numbers are on two of the Whelen light bars 1497 and 1502 (unknown serial numbers). Serial numbers on twelve of the light bars are 237568,209944,65459,654461,65487,65481,65462,64629.40318,198266,40314, and 64650 (no inventory control numbers). Three light bars have no serial numbers or inventory numbers. Inventory control numbers on the Setina prisoner transport cages are 1177, 1160, 1499, and 1504 (unknown serial numbers). Inventory control numbers on the Push bumpers are 1173, 1155, and 1496 (unknown serial numbers).

DISCUSSION:

These Whelen light bars have been in storage, are very old and do not work. The Setina prisoner transport cages and Setina push bumpers are old, and will not work on our newer year vehicles. .

RECOMMENDATION:

Police Department staff recommends that City Council authorize the removal of these items from inventory and authorize them to be declared rubbish.

ATTACHMENTS:

1. Consent Agenda Item 5 - Authorization to remove Whelen strobe lights, Setina prisoner transport cages, and Setina push bumpers from the Police Departm

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 236-2019

WHEREAS, the City of Gautier will host its annual Lights and Lagniappe on the Bayou on December 7th beginning at 3:00pm at Gautier City Hall; and

WHEREAS, the City desires to have fireworks entertainment at the event, as it has in past years; and

WHEREAS, Pyro Shows has offered to perform this entertainment for a price of $8,400.00 pursuant to the attached contract; and

WHEREAS, Pyro Shows intends to present a fireworks show titled "Christmas Light the Night"; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the contract agreement with Pyro Shows is hereby approved and authorized.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

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MAYOR

ATTEST:

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CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

Contract Agreement

This Agreement made this 5th day of November, 2019, by and between PYRO SHOWS, Inc., a Tennessee Corporation, whose address is 115 N. 1st Street, LaFollette, Tennessee, 37766, and hereinafter referred to as "**PYRO SHOWS"** and **CITY OF GAUTIER** with its principle place of business located at 3330 Highway 90, Gautier, in the State of Mississippi, hereinafter referred to as "Customer".

In consideration of the mutual promises and undertakings set forth herein, receipt of said consideration being acknowledged, the parties hereby agree as follows:

I. **FIREWORKS DISPLAY**: PYRO SHOWS agrees to furnish to Customer a fireworks display, hereinafter referred to as "Show", pursuant to the project/sales order #19-MS-12-07-C-8400-000503 dated this 5th day of November, 2019. The Show will be given on the 7th day of December, 2019. Rain date/postponement date: day of , .

II. **CANCELLATION**: PYRO SHOWS shall determine the weather conditions substantial enough to prevent PYRO SHOWS from proceeding with the Show; in which case, PYRO SHOWS agrees to present the Show on the following day or previously agreed upon rain date/postponement date. In the event the Show must be RESCHEDULED to a mutually agreed upon date other than the previously agreed upon rain date/postponement date, Customer shall remit the additional expenses to include labor, lodging, per diem, upon demonstration that said costs were actually incurred.
Should Customer, **CITY OF GAUTIER**, elect to CANCEL the Show for any reason, Customer must notify PYRO SHOWS via telephone call and electronic mail. Customer agrees that PYRO SHOWS shall incur expense in preparation for the Show and, accordingly, agrees to pay PYRO SHOWS the cost associated with Show preparation, included but not limited to, crew travel to include, labor, lodging, and per diem, upon demonstration that said costs were actually incurred. If the Customer does not provide PYRO SHOWS with notice of cancellation as set forth herein, Customer shall pay PYRO SHOWS the entire amount or one hundred percent (100%) of the contract price for the Show as liquidated damages.

III. **SECURITY AREA**: Customer agrees to furnish sufficient space for PYRO SHOWS to properly conduct the Show as determined by NFPA 1123-2014 (hereinafter "Security Area"). Customer agrees to provide adequate security protection to preclude persons unauthorized by PYRO SHOWS from entering the Security Area. For the purposes of the Agreement, "Unauthorized Persons" shall mean anyone other than the employees of PYRO SHOWS or persons specifically designated in writing by the sponsor or the Authority Having Jurisdiction (AHJ), and submitted and approved, to PYRO SHOWS prior to the event. Any expenses for security or stand-by fire protection shall be the responsibility of the Customer.

IV. **SITE CLEANUP**: PYRO SHOWS shall be responsible for basic cleanup of the launch area to include policing of the fallout zone for any unexploded ordnance and removal of all large paper debris, wood, wire, foil, racks, mortars and firing equipment used in the setup for the show. Customer shall be responsible for cleanup of debris located in and around fallout zone.

V. **INDEMNIFICATION AND HOLD HARMLESS**: To the extent permissible under Mississippi law, Customer agrees to hold PYRO SHOWS harmless from any damages caused to Customer which result as a consequence of unauthorized persons entering the Security Area. Furthermore, to the extent permissible under Mississippi law, Customer agrees to defend and indemnify PYRO SHOWS from any and all claims brought against PYRO SHOWS for damages caused wholly or in part by Unauthorized Person who have entered the Security Area.

VI. **AMENDMENT & ASSIGNMENT**: This agreement is deemed personal and confidential to Customer, his heirs, executors and administrators only, and may not be sold, assigned, amended, or transferred without the prior written consent of PYRO SHOWS.

VII. **COMPLIANCE WITH THE LAWS AND REGULATIONS**: Promptly upon the execution of this Agreement, Customer shall apply for the approval hereof to any agency, officer or authority of any government if such approval is required by any applicable law, ordinance, code or regulation. To the extent permissible under Mississippi law, Customer agrees to indemnify and hold harmless PYRO SHOWS from against all claims, suits, and causes of action, demands, penalties, losses or damages which may arise or accrue because of the failure or neglect of customer to obtain such approval. This Agreement is made expressly subject to and Customer expressly agrees to comply with and abide by all applicable laws, ordinances, codes and regulations insofar as the same may be applicable to the terms and conditions of this Agreement, including all rules and regulations now existing or that may be promulgated under and in accordance with any such law or laws.

VIII. **PERMITS AND LICENSES**: PYRO SHOWS shall process the necessary permits and licenses to enable PYRO SHOWS to perform fully hereunder unless otherwise forbidden by any other applicable statute, rule or otherwise. It is hereby stipulated that this Agreement is to be construed and governed by the laws of the State of Mississippi, and any suit involving this contract shall be brought in the Courts of Jackson County in the State of Mississippi, and the parties hereby submit to the jurisdiction of said Courts and waive any rights to proceed in other actions, in any other jurisdiction. For Shows that include licensed music accompaniment, Customer agrees to verify with their organization, venue, sponsor, and/or municipality, the permission to simulcast music and agrees to pay any and all fees associated with the broadcast of said music in the public environment of the Show.

IX. **LATE PAYMENT**: PYRO SHOWS shall charge, and Customer agrees to pay, one and one half percent (1 1\2%) per month late payment fee for each month until PYRO SHOWS is paid the amount set forth in Paragraph XIV herein. The stated late payment fee shall begin to run from the applicable date(s) established in Section XIV, unless this provision is prohibited by law.

X. **ADVERTISEMENT AND PROMOTIONS**: Customer agrees to state that fireworks display is being provided by PYRO SHOWS in all advertisements and promotions. Furthermore, Customer agrees to allow PYRO SHOWS to use sponsors name and/or logo in PYRO SHOWS list of clients and any Pyro Shows advertisements and promotions.

XI. **COMPLAINTS:** In the event that Customer has a complaint concerning the Show, or any material or product used in or pursuant to the Show, or of the conduct of the Show by PYRO SHOWS, or any act or omission of PYRO SHOWS or its agents, either directly or indirectly, without limitation, Customer shall make complaint known to PYRO SHOWS in writing by certified mail to PYRO SHOWS' address as set forth above, within ten (10) days after the date of the Show.

XII. **INSURANCE**: Pyro Shows will provide General Liability Insurance and Automobile Liability in the amount of $10,000,000.00, combined single limit, covering its activities and services in connection with the show described in this contract. Pyro Shows also agrees to include Customer as additional Insured under the terms of this coverage. Pyro Shows, Inc. will provide a Certificate of Insurance. All entities listed on the certificate will be deemed an additional Insured per this contract.

XIII. **PAYMENT TERMS**: CITY OF GAUTIER shall pay PYRO SHOWS $8,400.00 according to the terms and conditions set forth for presenting the Show. Customer shall submit a 50% deposit ($4,200.00) upon return of signed contract by November 25, 2019. Balance will be due in the PYRO SHOWS office within 30 days of completion of the show.

XIV. **TAXES**: Customer shall be responsible for all applicable sales taxes.

IMPORTANT: Checks must be made payable to PYRO SHOWS, INC.

All the terms and conditions set forth on any addendum attached to this Agreement are made part of this Agreement and incorporated by reference herein.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

PYRO SHOWS, INC.

BY:_____ DATE:_____

Michael E. Walden, Vice President

CUSTOMER

BY:_____ _____ _____ DATE:_____

Signature Printed Name Title

WARRANTY EXCLUSIONS

EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

No representation of affirmation of fact including but not limited to statement regarding capacity, suitability for use, or performance of equipment or products shall be, or be deemed to be, a warranty by PYRO SHOWS for any purpose, nor give rise to any liability or obligation of PYRO SHOWS whatsoever.

Fireworks Quote
for
City of Gautier "Christmas Light the Night"
December 7, 2019

All information is proprietary and confidential. No part may be copied or forwarded without the expressed permission of Pyro Shows.

Event Date: December 7,2019
Fireworks Duration: 15 Minutes

Fireworks Display Time: 6:00 PM
Music: N/A

Included Services

All permitting processing and fees required by the City and/or State.
All Pyrotechnician labor (trained in safety, licensed in pyrotechnics and insured by Pyro Shows).

Insurance Liability Coverages:

General Liability $10,000,000.00
Automobile Liability $10,000,000.00

Insurance Agency:

Britton-Gallagher and Associates
1375 E. 9th Street, 30th Floor
Cleveland, OH 44114

Workers Compensation:

Full coverage as required by State and Federal law, including United States Longshoreman and Harbormaster coverage.

Compliance:

Pyro Shows adheres to the following regulatory requirements:

BATFE – Bureau Alcohol, Tobacco, Firearms & Explosives
FAA – Federal Aviation Administration
NFPA 1123, 1124

All information is proprietary and confidential. No part may be copied or forwarded without the expressed permission of Pyro Shows.

Shell Summary

The sizes and quantities of fireworks we recommend for your show.

Gautier, MS
Christmas Light the Night
Saturday, December 7, 2019

$8,400.00

SHELL SIZE	MAIN BODY	FINALE	TOTAL
3"	480	180	660
		TOTAL SHELL COUNT	**660**

LOW LEVEL PRESENTATION

2	Positions of 100-Shot Popping Flower	200
2	Positions of 100-Shot Purple and Green Crossette	200
2	Positions of 200-Shot Peachblow and Lemon-Yellow Tail	400
2	Positions of 200-Shot Red and Green Bow Tie	400
2	Positions of 200-Shot Oriental Thunder	400
2	Positions of 250-Shot Brocade Crown	500
2	1000 Shot Whistle	2000
	TOTAL LOW LEVEL PRESENTATION	**4,100**

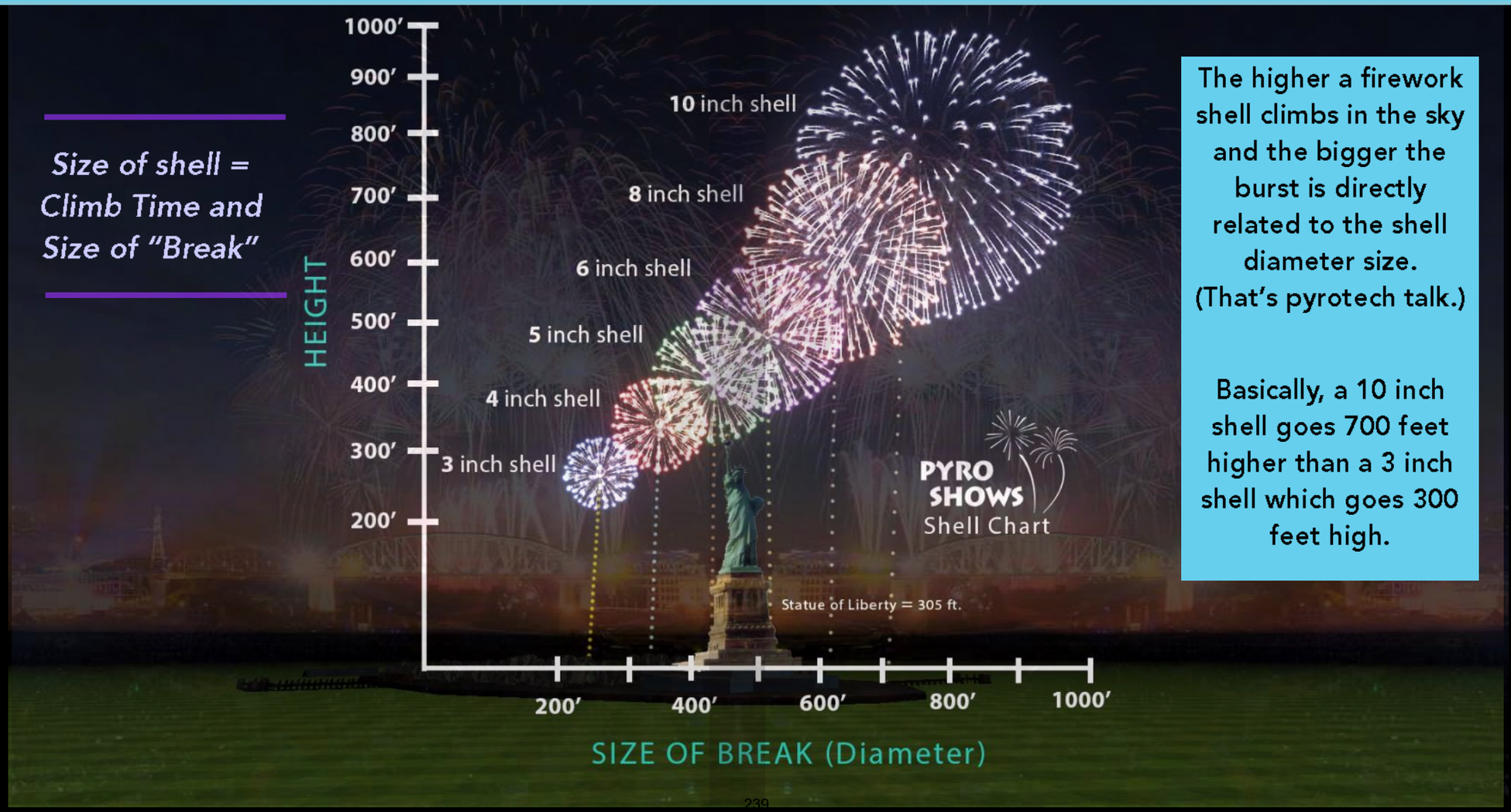
TOTAL SHELL COUNT & LOW LEVEL PRESENTATION	**4,760**

All information is proprietary and confidential. No part may be copied or forwarded without the expressed permission of Pyro Shows.

Firework Shell Size 101

The bigger the boom, the bigger the break.

Size of shell = Climb Time and Size of "Break"



The higher a firework shell climbs in the sky and the bigger the burst is directly related to the shell diameter size. (That's pyrotech talk.)

Basically, a 10 inch shell goes 700 feet higher than a 3 inch shell which goes 300 feet high.

All information is proprietary and confidential. No part may be copied or forwarded without the expressed permission of Pyro Shows.

PYROfessionals

We're good at what we do because we do what we LOVE.

At Pyro Shows, we believe that the mark of a good fireworks company is not the absence of an occasional "dud", but what we **DO FOR YOU** <u>if</u> there is a "dud".

- **Satisfaction Guaranteed**
- **$10M General Liability Coverage**
- **Superior Customer Service**
- **Expertise**
- **Experience**
- **Permits & Paperwork – we will handle it!**

All information is proprietary and confidential. No part may be copied or forwarded without the expressed permission of Pyro Shows.

Seriously Safe

Safety is first, EPIC is next.

As fun and festive as fireworks are, Pyro Shows is very **serious** about the **safety** of our spectators and our crews. In fact, safety is not just our job, its our **#1 mission**.

We get it. Business is business, but before hiring a fireworks company, do some fact-checking to verify their credentials. The answers to all of their safety and legal criteria must be YES.

(By the way, the ✓'s below signify that our answers are ALL YES.)

- ✓ Pyrotechnicians trained, licensed, and cleared by ATF
- ✓ Company ATF License
- ✓ State Display Exhibitor License
- ✓ USDOT Motor Carrier Policy for Public Liability
- ✓ Hazardous Materials Safety Permit
- ✓ $10M Certificate of Liability Insurance Coverage
- ✓ $1M Workers Compensation Insurance Coverage

All information is proprietary and confidential. No part may be copied or forwarded without the expressed permission of Pyro Shows.

Thank you for the opportunity to be part of your Christmas event. We look forward to hearing from you!

PYRO SHOWS

Since 1969

Celebrating 50 Years of Fireworks

All information is proprietary and confidential. No part may be copied or forwarded without the expressed permission of Pyro Shows.

Contract Agreement

This Agreement made this 5th day of November, 2019, by and between PYRO SHOWS, Inc., a Tennessee Corporation, whose address is 115 N. 1st Street, LaFollette, Tennessee, 37766, and hereinafter referred to as "**PYRO SHOWS"** and **CITY OF GAUTIER** with its principle place of business located at 3330 Highway 90, Gautier, in the State of Mississippi, hereinafter referred to as "Customer".

In consideration of the mutual promises and undertakings set forth herein, receipt of said consideration being acknowledged, the parties hereby agree as follows:

I. **FIREWORKS DISPLAY**: PYRO SHOWS agrees to furnish to Customer a fireworks display, hereinafter referred to as "Show", pursuant to the project/sales order #19-MS-12-07-C-8400-000503 dated this 5th day of November, 2019. The Show will be given on the 7th day of December, 2019. Rain date/postponement date: day of , .

II. **CANCELLATION**: PYRO SHOWS shall determine the weather conditions substantial enough to prevent PYRO SHOWS from proceeding with the Show; in which case, PYRO SHOWS agrees to present the Show on the following day or previously agreed upon rain date/postponement date. In the event the Show must be RESCHEDULED to a mutually agreed upon date other than the previously agreed upon rain date/postponement date, Customer shall remit the additional expenses to include labor, lodging, per diem, upon demonstration that said costs were actually incurred.
Should Customer, **CITY OF GAUTIER**, elect to CANCEL the Show for any reason, Customer must notify PYRO SHOWS via telephone call and electronic mail. Customer agrees that PYRO SHOWS shall incur expense in preparation for the Show and, accordingly, agrees to pay PYRO SHOWS the cost associated with Show preparation, included but not limited to, crew travel to include, labor, lodging, and per diem, upon demonstration that said costs were actually incurred. If the Customer does not provide PYRO SHOWS with notice of cancellation as set forth herein, Customer shall pay PYRO SHOWS the entire amount or one hundred percent (100%) of the contract price for the Show as liquidated damages.

III. **SECURITY AREA**: Customer agrees to furnish sufficient space for PYRO SHOWS to properly conduct the Show as determined by NFPA 1123-2014 (hereinafter "Security Area"). Customer agrees to provide adequate security protection to preclude persons unauthorized by PYRO SHOWS from entering the Security Area. For the purposes of the Agreement, "Unauthorized Persons" shall mean anyone other than the employees of PYRO SHOWS or persons specifically designated in writing by the sponsor or the Authority Having Jurisdiction (AHJ), and submitted and approved, to PYRO SHOWS prior to the event. Any expenses for security or stand-by fire protection shall be the responsibility of the Customer.

IV. **SITE CLEANUP**: PYRO SHOWS shall be responsible for basic cleanup of the launch area to include policing of the fallout zone for any unexploded ordnance and removal of all large paper debris, wood, wire, foil, racks, mortars and firing equipment used in the setup for the show. Customer shall be responsible for cleanup of debris located in and around fallout zone.

V. **INDEMNIFICATION AND HOLD HARMLESS**: To the extent permissible under Mississippi law, Customer agrees to hold PYRO SHOWS harmless from any damages caused to Customer which result as a consequence of unauthorized persons entering the Security Area. Furthermore, to the extent permissible under Mississippi law, Customer agrees to defend and indemnify PYRO SHOWS from any and all claims brought against PYRO SHOWS for damages caused wholly or in part by Unauthorized Person who have entered the Security Area.

VI. **AMENDMENT & ASSIGNMENT**: This agreement is deemed personal and confidential to Customer, his heirs, executors and administrators only, and may not be sold, assigned, amended, or transferred without the prior written consent of PYRO SHOWS.

VII. **COMPLIANCE WITH THE LAWS AND REGULATIONS**: Promptly upon the execution of this Agreement, Customer shall apply for the approval hereof to any agency, officer or authority of any government if such approval is required by any applicable law, ordinance, code or regulation. To the extent permissible under Mississippi law, Customer agrees to indemnify and hold harmless PYRO SHOWS from against all claims, suits, and causes of action, demands, penalties, losses or damages which may arise or accrue because of the failure or neglect of customer to obtain such approval. This Agreement is made expressly subject to and Customer expressly agrees to comply with and abide by all applicable laws, ordinances, codes and regulations insofar as the same may be applicable to the terms and conditions of this Agreement, including all rules and regulations now existing or that may be promulgated under and in accordance with any such law or laws.

VIII. **PERMITS AND LICENSES**: PYRO SHOWS shall process the necessary permits and licenses to enable PYRO SHOWS to perform fully hereunder unless otherwise forbidden by any other applicable statute, rule or otherwise. It is hereby stipulated that this Agreement is to be construed and governed by the laws of the State of Mississippi, and any suit involving this contract shall be brought in the Courts of Jackson County in the State of Mississippi, and the parties hereby submit to the jurisdiction of said Courts and waive any rights to proceed in other actions, in any other jurisdiction. For Shows that include licensed music accompaniment, Customer agrees to verify with their organization, venue, sponsor, and/or municipality, the permission to simulcast music and agrees to pay any and all fees associated with the broadcast of said music in the public environment of the Show.

IX. **LATE PAYMENT**: PYRO SHOWS shall charge, and Customer agrees to pay, one and one half percent (1 1\2%) per month late payment fee for each month until PYRO SHOWS is paid the amount set forth in Paragraph XIV herein. The stated late payment fee shall begin to run from the applicable date(s) established in Section XIV, unless this provision is prohibited by law.

X. **ADVERTISEMENT AND PROMOTIONS**: Customer agrees to state that fireworks display is being provided by PYRO SHOWS in all advertisements and promotions. Furthermore, Customer agrees to allow PYRO SHOWS to use sponsors name and/or logo in PYRO SHOWS list of clients and any Pyro Shows advertisements and promotions.

XI. **COMPLAINTS:** In the event that Customer has a complaint concerning the Show, or any material or product used in or pursuant to the Show, or of the conduct of the Show by PYRO SHOWS, or any act or omission of PYRO SHOWS or its agents, either directly or indirectly, without limitation, Customer shall make complaint known to PYRO SHOWS in writing by certified mail to PYRO SHOWS' address as set forth above, within ten (10) days after the date of the Show.

XII. **INSURANCE**: Pyro Shows will provide General Liability Insurance and Automobile Liability in the amount of $10,000,000.00, combined single limit, covering its activities and services in connection with the show described in this contract. Pyro Shows also agrees to include Customer as additional Insured under the terms of this coverage. Pyro Shows, Inc. will provide a Certificate of Insurance. All entities listed on the certificate will be deemed an additional Insured per this contract.

XIII. **PAYMENT TERMS**: CITY OF GAUTIER shall pay PYRO SHOWS $8,400.00 according to the terms and conditions set forth for presenting the Show. Customer shall submit a 50% deposit ($4,200.00) upon return of signed contract by November 25, 2019. Balance will be due in the PYRO SHOWS office within 30 days of completion of the show.

XIV. **TAXES**: Customer shall be responsible for all applicable sales taxes.

IMPORTANT: Checks must be made payable to PYRO SHOWS, INC.

All the terms and conditions set forth on any addendum attached to this Agreement are made part of this Agreement and incorporated by reference herein.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

PYRO SHOWS, INC.

BY:_____ DATE:_____

Michael E. Walden, Vice President

CUSTOMER

BY:_____ _____ _____ DATE:_____

Signature Printed Name Title

WARRANTY EXCLUSIONS

EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

No representation of affirmation of fact including but not limited to statement regarding capacity, suitability for use, or performance of equipment or products shall be, or be deemed to be, a warranty by PYRO SHOWS for any purpose, nor give rise to any liability or obligation of PYRO SHOWS whatsoever.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 237-2019

WHEREAS, the City of Gautier will host its annual Lights and Lagniappe on the Bayou on December 7th beginning at 3:00pm at Gautier City Hall; and

WHEREAS, the City desires to have a "snow experience" at the event; and

WHEREAS, Eastern Shore Inflatables has offered to provide this equipment and perform this service pursuant to the attached contract; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the contract agreement with Eastern Shore Inflatables in an amount of $7,500 is hereby approved and authorized.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: Chassity Bilbo, Recreation Director
Date: 10/28/2019
Subject: Approval of a Contract Agreement with Eastern Shore Inflatables

---

REQUEST:
The Recreation Department requests City Council authorization to enter into a contract agreement with Eastern Shore Inflatables in the amount of $7,500 for the City's Annual Lights and Lagniappe on the Bayou Winter Wonderland Snow Party.

BACKGROUND:
The City of Gautier will host its annual Lights and Lagniappe on the Bayou on December 7th beginning at 3:00 p.m. at Gautier City Hall. This year's festival will include a Winter Wonderland Snow Party.

Festivities this year includes Elf on the Bayou, appearances by Rudolph and the Grinch, fireworks show, pet adoptions, children's craft area, pictures with Santa, winter wonderland snow party, the Pascagoula– Gautier School District Choir spreading holiday cheer, and the Annual Tree Lighting Ceremony.

DISCUSSION:
In an area which rarely sees snow, Gulf Coast Snowmakers/ Eastern Shore Inflatables will bring a snow party to the City of Gautier using real ice and snow blowers to create a real snow party. Gulf Coast Snow Makers/ Eastern Shore Inflatables will provide the City with a quality snow party. Gulf Coast Snowmakers will create a snow experience that our citizens will never forget and will have friendly staff to ensure that we get the right amount for our snow party.

RECOMMENDATION:
The Recreation Department recommends that City approve a Contract Agreement with Eastern Shore Inflatables in the amount of $7,500.

City Council May:
1.Approve a Contract Agreement with Eastern Shore Inflatables in the amount of $7,500.

2.Not approve a Contract Agreement with Eastern Shore Inflatables in the amount of $7,500.

ATTACHMENTS:

Order # 23253

Rental Date
12/07/2019 03:00pm

Contact Person
Chassity Bilbo

Event Address
3330 Hwy 90

City, State, Zip
other: Gautier, other: MS, 39553

Home Phone
288-219-7644

Cell Phone

Event Rental Time
12/07/2019 03:00pm thru 12/07/2019 05:00pm

Location
Gautier City Hall

Setup Surface
Grass

Equipment Rented

1.
Snow Event - 40,000 Poundx1
$6,950.00

SubTotal

$6,950.00

Travel Fee

$550.00

$7,500.00

Tax: 0%

$0.00

$7,500.00

Total

$7,500.00

Deposit Required

$50.00

Due

$7,500.00

Customer Comments:

Inspected By _____

THANK YOU FOR YOUR BUSINESS!

TERMS OF LEASE

In addition to the terms below, and the operation guidelines on each rented item, the Lessee (customer) agrees to supervise the operation of any rented item and further agrees that if the item is damaged that he/she will reimburse Eastern Shore Inflatables for the full price to fix the damage and/or the full replacement value of the rented item. Before signing this contract, Lessee agrees that he/she has read the entire contract, has agreed to all terms and conditions herein, and has had all questions he/she may have answered to the Lessee's full satisfaction and understanding.

Delivery/Operation/Payments: To address specified by Lessee. Lessee grants Eastern Shore Inflatables and its employees/contractors, the right to enter said property for the delivery and return of the rented equipment at approximate times. All payments must be made at time of delivery. No refunds will be made after the equipment has been delivered. For jumpers, the lessee agrees to provide one electrical outlet rated at 115 volts with 20 amperes capacity per motor unit within 75 feet of each unit. No electrical cords are to be used. If the blower stops or the air pressure is low, **remove** all users immediately, and then check on the problem. Air tubes in the rear of the unit should be tied securely to the blower or tied off to prevent air from escaping. The electrical cord should be plugged into an outlet and be the only thing operating on that electrical circuit. Circuit breakers should also be checked. Customer is subject to an additional charge of $20.00 for all service calls due to electricity.

General Rules for Safe Operation: Units must be operated over a smooth, compatible surface such as grass or hard top surface. The unit may NOT be operated on rough surfaces such as rocks, brick, glass, or any jagged objects. Unit cannot be moved by lessee after placed by Eastern Shore Inflatables employees/contractors. Unit MUST BE properly anchored prior to use. Unit will be anchored initially by Eastern Shore Inflatables employees/contractors and the anchors MUST NOT be removed during period of use. **Never** attempt to relocate, adjust or service a blower. **Never** use during high winds, gusty winds, thunderstorms or lightening. The unit can turn over in high winds, even if anchored, and this could result in severe injuries to the users. **Do not** resume use until adverse weather conditions have ceased. **Always** follow the manufacturers guidelines located on the unit itself.

Additional Safety Rules: **Before entering the unit,** have the users remove their shoes, eye glasses, belt buckles and any sharp objects. **Never** play, jump or enter a partially inflated/deflated unit. **Never** allow the users to climb or play on the outside or inside walls of the unit, columns, netting or roof of unit. **Always** follow the number of riders and rules posted on the unit itself. **Do not** plug or unplug the motor repeatedly as this will cause the unit to burn up and you will be responsible for any resulting damage. **Always** have an adult present, who has reviewed and understands both this contract and the rules posted on the unit itself, who can supervise the riders. **Never** allow the users to be unsupervised in or around the unit. **Never** allow more users than the maximum number of users per age group as described within this lease and on the unit itself. Never place a hose or water on or into the unit unless authorized by Eastern Shore Inflatables. **Do not** allow horseplay on, in, or around the unit. **Always** follow the directions for use on the unit itself.
Only children of the same age group are to play on the unit at the same time. The maximum number of users in each age group is as follows:

By Age	Under 5 years	6-8 years	9-13 years	Older Teens	Adults
Party Unit	8-10	8	6	4	2
Large Unit	12 -16	12	10	8	6
Slide Unit	6- 8	6	4	3	2

_____ Lessee Initial

Additional Terms of Lease: Eastern Shore Inflatables is not responsible for bad weather, disruption of electrical service and/or unfavorable conditions that may arise and no charges or fees will be reimbursed as a result.
ABSOLUTELY NO silly string or similar items, such as, but not limited to, food, drinks, confetti, foam or trash, in or around the unit at any time !!! Silly string and like objects will cause permanent damage to the unit and lessee will be responsible for the full replacement value of the rented unit and/or assessed a $75.00 cleaning fee if the unit is determined not to be permanently damaged. Lessee agrees **not** to operate the unit(s) in a manner contrary to this contract and the rules of use on each unit. If lessee operates the unit (s) in a manner contrary to the contract and rules of use on each unit, and the unit is damaged, Lessee agrees to pay the cost or repair or full replacement value of any damaged equipment or unit.
Lessee agrees that the equipment leased is for Lessee's own use and said equipment is not be loaned, sub-let, mortgaged or in any other manner disposed of by Lessee. Lessee further agrees to be liable for any loss of said equipment by reason of fire, theft, or any other cause.

Hold Harmless Provisions: Lessee agrees to indemnify and hold Eastern Shore Inflatables harmless from any and all claim, actions, suits, proceedings, costs, expenses, fees, damages and liabilities, including, but not limited to, reasonable attorney's fees and costs, arising by reason of injury, damage, or death to persons or property, in connection with or resulting from the use of the leased equipment. This includes, but is not limited to, the manufacture, selection, delivery, possession, use, operation, or return of the equipment. Lessee hereby releases and holds harmless Eastern Shore Inflatables from injuries or damages incurred as a result of the use of the leased equipment. Eastern Shore Inflatables cannot, under any circumstances, be held liable for injuries as a result of inappropriate use, God, nature, or other conditions beyond its control or knowledge. Lessee also agrees to indemnify and hold harmless Eastern Shore Inflatables from any loss, damage, theft or destruction of the equipment during the term of the lease and any extensions thereof.

Disclaimer of Warranties: Eastern Shore Inflatables makes no warranty of any kind, either express or implied, as

to the condition of or performance of any leased equipment and Lessee agrees to **immediately** cease use of the equipment and contact Eastern Shore Inflatables if any of the lease equipment develops any indication defect or improper working conditions. Lessee agrees to use the equipment **at Lessees own risk**.

Breach/Indemnity/Arbitration: In the event that Lessee breaches any of the terms of this lease, that Lessee will pay for all consequential damages and further indemnify Eastern Shore Inflatables for all costs incurred by Eastern Shore Inflatables incurred in enforcing the terms of the lease or in defending any claim or lawsuit arising out of the operation of said equipment, including the amount of any judgment, attorney's fees and costs. If Eastern Shore Inflatables determines, within its own discretion, that Lessee has failed, in any way, to observe or comply with the conditions of this lease, Eastern Shore Inflatables may exercise any of the following remedies: termination of this agreement; reenter property and retake the equipment; declare any outstanding rent and charges immediately due and payable and initiate whatever legal proceedings necessary to recover said equipment or monies; and/or pursue any additional remedies available it by law. If a conflict arises, Eastern Shore Inflatables and Lessee will abide by the Alabama state laws and forgo filing a lawsuit to solve the dispute.

BY SIGNING MY NAME ON THIS CONTRACT I, BEING THE LESSEE, CONTACT PERSON, LESSEE REPRESENTATIVE, OR OTHER INDIVIDUAL ASSUMING THE ROLE OF *LESSEE, ACKNOWLEDGE THAT I HAVE COMPLETELY READ AND UNDERSTAND THIS CONTRACT AND ANY AND ALL ACCOMPANIED ADDENDUM(S). I HAVE BEEN FULLY INSTRUCTED BY Eastern Shore Inflatables PERSONNEL AS A TRAINED OPERATOR FOR THE AFFORMENTIONED EQUIPMENT AND HAVE HAD ALL OF MY QUESTIONS ANSWERED TO MY SATISFACTION. I UNDERSTAND THAT I AM SOLEY RESPONSIBLE FOR ADHERING* TO *THE TERMS SET FORTH BY THIS RENTAL CONTRACT AGREEMENT AND ANY AND ALL ACCOMPANIED ADDENDUM(S).*

SIGNATURE _____ *PRINT NAME* _____ *DATE* _____

*******REMINDER: NO SILLY STRING OR CHEWING GUM. MINIMUM $100 CLEANING FEE. SEVERE DAMAGE MAY RESULT IN RENTER PAYING FULL REPLACEMENT VALUE OF INFLATABLE.*******

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 238-2019

WHEREAS, CVS Caremark currently provides pharmacy management services for the City of Gautier Self-Funded Employee Health; and

WHEREAS, specialty drugs cost the plan in excess of $50,000 in FY2019 and will continue to rise with the increased development and use of these drugs;

WHEREAS, Magellan Rx offers expanded management services designed to save the city money long term; and

WHEREAS, Magellan Rx is determined to provide additional benefits and services specifically related to specialty drugs that would be beneficial in effectively lowering costs for both employees and the city; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi that the approval of a three (3) contract with Magellan Rx Management to provide pharmacy management services for the City of Gautier Self-Funded Employee Health Plan is hereby approved.

IT IS FURTHER ORDERED that the City Manager and City Clerk are authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by the Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: LaKeisha Hill, Human Resources Generalist
Date: 10/28/2019
Subject: Pharmacy Services

REQUEST:
Approve three (3) year contract with Magellan Rx Management to provide pharmacy management services for the City of Gautier Self-Funded Employee Health Plan.

BACKGROUND:
Pharmacy services in the plan are currently provided by CVS Caremark. Magellan Rx offers expanded management services designed to save the plan money long term.

DISCUSSION:
Renewal discussions for this plan year included the proposed change in pharmacy plans. The pharmacy plan year will end in December. Magellan Rx will pick up in January.

Magellan Rx was determined to provide additional benefits and services specifically related to specialty drugs that would be beneficial in effectively lowering costs for both employees and the City.

Specialty Drugs cost the plan in excess of $50,000 in FY 2019. These cost will continue to rise with the increased development and use of these drugs.

RECOMMENDATION:
It is recommended the Gautier City Council approve the pharmacy benefits management financial proposal with Magellan Rx Management for a three (3) year term.

ATTACHMENTS:

1. Consent Agenda Item 8 - Magellan Rx Management Proposal

HUB

Pharmacy Pricing Overview	CVS Caremark	Magellan Rx
Channel		
Retail Network Discounts	Aligned Formulary	Aligned Formulary
Brand Average Wholesale Price("AWP") Discount	18.00%	17.25%
Generic AWP Discount	78.50%	80.50%
Single Source Generic Guarantee	78.50%	80.50%
Dispensing Fees - Brand / Generic	$0.65/$0.65	$0.90/0.90
Retail 90 (84+ Days' Supply) Network Discounts		
Brand AWP Discount	20.50%	20.00%
Generic AWP Discount	81.80%	80.50%
Single Source Generic Guarantee	81.80%	80.50%
Dispensing Fees - Brand / Generic	$0.00	$0.25 / $0.25
Mail Order Discounts		
Brand AWP Discount	25.00%	24.00%
Generic AWP Discount	85.80%	82.50%
Single Source Generic Guarantee	85.80%	82.50%
Dispensing Fees - Brand / Generic	$0.00 / $0.00	$0.00 / $0.00
Specialty Drugs Discounts	Exclusive / Open	Exclusive / Open
Specialty AWP Discount	17.50%	16.50%
Specialty Dispensing Fees	$0.00	$0.00
Administrative Fees		
Administrative Per Claim Fee	$0.90	$0.00
Three Tier Rebates	Advanced Control Specialty Formulary	Advanced Control Specialty Formulary
Rebate Type	Per Brand Claim	Per Brand Claim
Guaranteed Retail Rebate Amount	$140.00	$125.95
Guaranteed Retail-90 Rebate Amount	$280.00	$359.83
Guaranteed Mail Rebate Amount	$433.00	$495.50
Guaranteed Specialty Rebate Amount	$980.00	$1,115.78

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Magellan Rx MANAGEMENT℠

Magellan Rx Management
Pharmacy Benefits Management Services

City of Gautier- Traditional/Precision Plus

Effective Date: January 01, 2020

Kimberly James, Account Manager II

Magellan Rx Management
15950 North 76th Street, Suite 200
Scottsdale, Arizona 85260
(480) 624-9400

Magellan Rx MANAGEMENT℠

Pharmacy Benefits Management Financial Proposal for City of Gautier- Traditional/Precision Plus

Magellan Rx Management offers a competitive network built on strong partnering relationships with our member pharmacies, which includes approximately 66,000 pharmacies nationwide. We constantly strive to deliver access, flexibility, and coverage options that make sense to benefit providers. Our comprehensive financial proposal is provided below.

Traditional Pricing Guarantees	
Retail Network Pricing 1 - 83 Days' Supply at Retail	
Brands	AWP - 18.50%, plus $0.90 dispensing fee
Generics	AWP - 83.00%, plus $0.90 dispensing fee
Administrative Fee per Rx	$1.00 per claim
Retail Network Pricing > 83 Days' Supply at Retail	
Brands	AWP - 21.00%, plus $0.25 dispensing fee
Generics	AWP - 83.00%, plus $0.25 dispensing fee
Administrative Fee per Rx	$1.00 per claim
Mail Service	
Brands	AWP - 24.00%, plus $0.00 dispensing fee
Generics	AWP - 84.00%, plus $0.00 dispensing fee
Administrative Fee per Rx	$1.00 per claim
Specialty Rx	
Discounts	Discounts vary by product
Dispensing Fees	Pass Through - Specialty
Administrative Fee per Rx	$1.00 per claim
Precision Plus Formulary	
Rebates	
	$151.88 per Retail 30 Brand
	$431.20 per Retail 90 Brand
	$596.80 per Mail Brand
	$1518.06 per Specialty Brand

Please Note: Due to limited distribution agreements conducted by manufacturers, a small number of specialty products are not available at the exclusive pricing schedule. Rebate estimates are based on our book of business utilization and may vary dependent upon your actual drug mix.

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Magellan Rx MANAGEMENT℠

Prescription Benefits Management Services At No Additional Fee

Administrative	
Members Customer Services	Electronic Claims Processing
Eligibility notification: • Electronic/on-line submission • FSA Feeds	Coordination of Benefits (COB): • Standard Process (reject for primary carrier, electronic only)
Plan Setup	Software Training for Access to Our On-Line System(s)
Pharmacy Network	
Pharmacy Help Desk	Pharmacy Audit Recoveries
Real-time Pharmacy Audit	Network Development Upon Request
Mail Service	
Benefit Education	Prescription Delivery—standard carrier delivery
Reporting Services	
Web-based Client Reporting— produced by Plan Sponsor	Ad hoc desktop reports
Additional Reports: • Billing Reports • Annual Account Review and Strategic Action Plan	Claims detail extract file electronic (NCPDP format)
Web Site	
MagellanRx.com—Clients: Access to reporting tools, eligibility update capability, contact directory, sales and marketing information, and benefit and enrollment support	MagellanRx.com—Members: Access to benefit, formulary, health and wellness information; prescription ordering capability; and customer service
Implementation Package and Member Communications	
Member Packets and Communications: • Mailed to sponsor	

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Magellan Rx MANAGEMENT℠

Clinical Management and Cost Containment Strategies at No Additional Fee

Web-based Member, Physician and Pharmacist Education
Concurrent Drug Utilization Review—Point-of-service edits for the most important drug- and member-specific pharmaceutical care issues.

Product Selection
Support appropriate selection of cost-effective medications through active interventions.

Drug Quantity Management
Ensures that the quantity supplied in each prescription remains consistent with clinical dosing guidelines and Plan Sponsor's benefit design—Standard List

High Utilizer and Cost Management Report
Identifies members who are at high risk for hospitalization or increased medical/pharmacy cost.
Drug/utilization targeting report including member detail.

Prior Authorization-Administrative Overrides
Manage plan benefits and drug costs by ensuring appropriate prescribing and use by members:

- Non-clinical PA
- Lost/stolen overrides
- Vacation supplies

Emerging Therapeutic Issues Management
Rapid communication to alert physicians, members, and clients about significant patient-safety related issues (drug withdrawals, black box warnings, and class I recalls).
Proactively alerts our clients to new drugs that are anticipated to have a significant impact on pharmacy cost.

Step Therapy
Intervention designed to support use of less expensive and clinically appropriate medications at the point of service.

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Magellan Rx MANAGEMENT℠

Additional Services	Fee
Member Packets:	
• Mailed directly to Members	$1.25/member address + postage
• ID Cards	$0.25/card Rx Only; $0.50/card Rx + Medical
• Customized materials	Priced upon request
Retrospective DUR Periodic physician communication targeting multiple utilization issues: • Drug-Drug Interactions • Drug-Patient Interactions • Drug-Disease Interactions • Drug-Pregnancy Interactions • Drug Overutilization • Drug Underutilization • Duplicate Therapy • Dose Optimization (over 110 drugs included) • Addictive Substances (including Oxycontin, Morphine, Fentanyl)	Included
Prior Authorization–Basic List Intervene to support appropriate use at the point of service through pre-established clinical criteria.	$35 per pharmacist-mediated PA
Prior Authorization—Specialty Drug Products	$35 per pharmacist mediated PA
E-prescribing	$0.16 per eligibility check
Member Submitted Paper Claims Processing	$1.50/claim + postage
Custom Ad Hoc Reporting	$195 per hour
Grievances & Appeals	$100 per case

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Magellan Rx MANAGEMENT℠

Proposal Date: October 29, 2019

Notes and Definitions

- Quoted fees and services are valid for 90 days from the proposal date and require a 3-year contract.
- Pricing will be effective on the date provided or upon execution of contract, whichever is later, and is contingent upon Magellan Rx Management as the preferred provider of Pharmacy Benefit Management (PBM) services.
- Magellan Rx Management reserves the right to amend the pricing proposal set forth herein if there is a material change in the number of persons included in the prescription drug program or any material change in the benefit plan from that which was originally presented to Magellan Rx Management and upon which this proposal is based.
- Direct member reimbursement (DMRs) claims and compounded drug claims are excluded from rates.
- Maximum Allowable Cost or MAC means the price for certain generic drugs which is equivalent to a discount off of AWP up to 90%. Magellan Rx Management, in its sole discretion, determines and periodically updates the MAC list to reflect changes in generic drug prices. Approximately 95% of generic claims pay at the Magellan Rx Management MAC price or better.
- Magellan Rx Management claims process at the lower of AWP discount, MAC pricing, Submitted price or U & C. Sponsor acknowledges its requirement to adopt the applicable Magellan Rx Management Formulary and the formulary support programs in order to be eligible for rebates. Under the Precision Plus formulary, certain drugs in certain Therapeutic class are excluded from coverage.
- Rebates are paid only upon receipt of a signed contract. Magellan Rx Management reserves the right to renegotiate in good faith rates, fees, and guarantees if membership, utilization, market conditions or legislation varies materially from the time this quote was provided.
- Mail service rates exclude specialty and certain non-specialty injectable products. Generic discounts exclude high cost generic drugs with a monthly cost of at least $600.
- Extended days supply rates at participating pharmacies only.
- Employers and employer owned pharmacies who have contracts for rebates with drug manufacturers or are part of a purchasing group that have contracts for rebates with drug manufacturers are not eligible for rebates or other manufacturer incentives through Magellan Rx Management.
- Retail Network Pricing > 83 Days' Supply rates only apply at contracted pharmacies within the 90 day retail network

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Magellan Rx MANAGEMENT℠

The terms and conditions of this proposal are accepted by:

Magellan Rx Management

By

Printed Name

Title

Date

City of Gautier- Traditional/Precision Plus
QUO-22036-C8L3H7

By

Printed Name

Title

Phone

Fax

Date

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There came on for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 239-2019

WHEREAS, on October 25, 2019, the City of Gautier received a Tidelands Grant Agreement from the Department of Marine Resources for a FY2020 Tidelands grant award in the amount of $250,000 for the Mary Walker Bayou Parks Project; and

WHEREAS, the goal of the Mary Walker Bayou Parks Project is to provide innovative public access opportunities to the general public for recreational activities, and this goal can be met through continued work to build amenities at City Park and Town Commons Park; and

WHEREAS, in order to utilize these funds, the City must enter the attached agreement; and

WHEREAS, the Mayor and Council Members find that entering into this agreement is in the best interest of the City of Gautier;

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the City is hereby authorized to enter into a grant agreement with Mississippi Department of Marine Resources (MDMR) for FY2020 Tidelands funding for the Mary Walker Bayou Parks Project in the amount of $250,000.00.

IT IS FURTHER ORDERED that the City Manager or City Clerk authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: April Stennett, Grants Administrator
Date: 10/29/2019
Subject: FY2020 Tidelands Grant Agreement - Mary Walker Bayou Parks Project (FY20-P618-01)

REQUEST:
The Grants and Projects Department requests City Council authorization to enter into a grant agreement with the Mississippi Department of Marine Resources (MDMR) for FY2020 Tidelands funding for the Mary Walker Bayou Parks Project in the amount of $250,000.

BACKGROUND:
On October 25, 2019, the City of Gautier received a Tidelands Grant Agreement from the Department of Marine Resources for a FY2020 Tidelands grant award in the amount of $250,000.00 for the Mary Walker Bayou Parks Project. This project, which affects Town Commons and City Park, was previously known as the City Park Community Center Phase III Project and has been ongoing for several years.

DISCUSSION:
The goal of this project is to provide innovative public access opportunities to the general public for recreational purposes. This goal can be met through continued work to build amenities at City Park and Town Commons Park.

RECOMMENDATION:
The Grants and Projects Department recommends that City Council authorize entering into a grant agreement with the Mississippi Department of Marine Resources (MDMR) for FY2020 Tidelands funding for the Mary Walker Bayou Parks Project in the amount of $250,000.

The City Council may:
1) Approve entering into a grant agreement with the Mississippi Department of Marine Resources (MDMR) for FY2020 Tidelands funding for the Mary Walker Bayou Parks Project in the amount of $250,000; or
2) Not approve entering into a grant agreement with the Mississippi Department of Marine Resources (MDMR) for FY2020 Tidelands funding for the Mary Walker Bayou Parks Project in the amount of $250,000.

ATTACHMENTS:
1. Award Letter and Grant Agreement
2. Consent Agenda Item 9 - Authorization to enter into FY2020 Tidelands Grant Agreement – Mary Walker Bayou Parks Project (FY20-P618-01)

STATE OF MISSISSIPPI
Phil Bryant
Governor

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
Joe Spraggins, Executive Director

October 23, 2019

Mayor Phil Torjusen
3330 Highway 90
Gautier, MS 39553

Re: Tidelands Grant Award –Gautier's Mary Walker Bayou Parks Project

Dear Mayor Torjusen:

I am pleased to announce the City of Gautier has been awarded a Public Trust Tidelands grant for the above referenced project by the Mississippi Legislature. This award was authorized during the 2019 Mississippi Legislative session. See attached 2020 Grant Agreement for the above referenced project. Please sign and return al original to Sonja Slater, Tidelands Coordinator.

Thank you for making the Mississippi Gulf Coast a better place to live and work. Please feel free to contact me at any time should the Mississippi Department of Marine Resources be of service to you, (P)228-523-4011 or joe.spraggins@dmr.ms.gov.

In appreciation,

Joe Spraggins
Executive Director

cc: April Stennett

FY20-P618-01

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

Tidelands Grant Agreement
City of Gautier
FISCAL YEAR 2020

City of Gautier hereby agrees to expend funds as authorized by the Mississippi Legislature in H.B. 1656 2019 Regular Session and Mississippi Code Section 29-15-9.

The Mississippi Department of Marine Resources will disburse funds in the amount of **$ 250,000.00** for the Gautier's Mary Walker Bayou Parks Project, upon (1) receipt of this signed document; (2) MDMR possession of amended application with complete and final project designs and plans; (3) release of funds from the Mississippi Department of Finance and Administration; and (4) availability of said funds. The Mississippi Department of Marine Resources shall make progress payments in installments based on work completed and material used in the performance of a Tidelands project only after receiving written verification using Form TTF-3 (Attachment 1) and Form TTF-4 or Form TTF-5.

The **City of Gautier** agrees to:

1) Expend monies for the project as designated by the Legislature in H.B. 1656 2019 Regular Session Gautier's Mary Walker Bayou Parks Project and Mississippi Code Section 29-15-9 and be subject to an audit by the State Auditor.

2) Provide the Department of Marine Resources with detailed reports beginning January 31, 2020, and every six months thereafter for the duration of project, using the attached form TTF-4 (Attachment 2). Project reports will include:
   - -Final project design and budget
   - -Benefits to the public and community
   - -Visual presentation (photographs) of project
   - -Narrative description of project
   - - Description of Work Completed
   - - Milestones for Completion
   - - Funds expended (to include Tidelands and Matching Funds)

3) Provide the Department of Marine Resources with a Notification of Completion – TTF-5 (to be included in final payment request-Form TTF-3) to include a detailed final report of entire project, using the attached forms (Attachment 3).

4) Erect a prominent, permanent sign to be displayed at all funded public access and construction related projects. The sign shall read "Funds for this project appropriated by the Mississippi Legislature, 2020 Tidelands Trust Fund, through the Secretary of State, Delbert Hosemann, and the Mississippi Department of Marine Resources."

On behalf of the **City of Gautier** I have read, understand, and agree to all terms listed above, and recognize that failure to comply with any portion of this Grant Agreement could jeopardize the receipt of any future Tidelands Trust Funds Appropriations.

Joe Spraggins, Executive Director
Department of Marine Resources

10-19-19
Date

Phil Torjusen, Mayor
City of Gautier

Date

There came on for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 240-2019

WHEREAS, on October 25, 2019, the City of Gautier received a Tidelands Grant Agreement from the Department of Marine Resources for a FY2020 Tidelands grant award in the amount of $250,000 for the Shepard State Park Upgrades Project; and

WHEREAS, the goal of the Shepard State Park Upgrades Project is to provide innovative public access opportunities to the general public for recreational purposes, and this goal can be met through continued work to build amenities at Shepard State Park; and

WHEREAS, in order to utilize these funds, the City must enter the attached agreement; and

WHEREAS, the Mayor and Council Members find that entering into this agreement is in the best interest of the City of Gautier;

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the City is hereby authorized to enter into a grant agreement with Mississippi Department of Marine Resources (MDMR) for FY2020 Tidelands funding for the Shepard State Park Upgrades Project in the amount of $250,000.00.

IT IS FURTHER ORDERED that the City Manager or City Clerk authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: April Stennett, Grants Administrator
Date: 10/29/2019
Subject: FY2020 Tidelands Grant Agreement – Shepard State Park Upgrades (FY20-P618-02)

REQUEST:
The Grants and Projects Department requests City Council authorization to enter into a grant agreement with the Mississippi Department of Marine Resources (MDMR) for FY2020 Tidelands funding for the Shepard State Park Upgrades Project in the amount of $250,000.

BACKGROUND:
On October 25, 2019, the City of Gautier received a Tidelands Grant Agreement from the Department of Marine Resources for a FY2020 Tidelands grant award in the amount of $250,000.00 for the Shepard State Park Upgrades Project.

DISCUSSION:
The goal of this project is to provide innovative public access opportunities to the general public for recreational purposes. This goal can be met through continued work to build amenities at Shepard State Park.

RECOMMENDATION:
The Grants and Projects Department recommends that City Council authorize entering into a grant agreement with the Mississippi Department of Marine Resources (MDMR) for FY2020 Tidelands funding for the Shepard State Park Upgrades Project in the amount of $250,000.

The City Council may:
1) Approve entering into a grant agreement with the Mississippi Department of Marine Resources (MDMR) for FY2020 Tidelands funding for the Shepard State Park Upgrades Project in the amount of $250,000; or
2) Not approve entering into a grant agreement with the Mississippi Department of Marine Resources (MDMR) for FY2020 Tidelands funding for the Shepard State Park Upgrades Project in the amount of $250,000.

ATTACHMENTS:
1. Award Letter and Grant Agreement
2. Consent Agenda Item 10 - Authorization to enter into FY2020 Tidelands Grant Agreement – Shepard State Park Upgrades Project (FY20-P618-02)

STATE OF MISSISSIPPI
Phil Bryant
Governor

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
Joe Spraggins, Executive Director

October 23, 2019

Mayor Phil Torjusen
3330 Highway 90
Gautier, MS 39553

Re: Tidelands Grant Award – Shepard State Park Upgrades

Dear Mayor Torjusen:

I am pleased to announce the City of Gautier has been awarded a Public Trust Tidelands grant for the above referenced project by the Mississippi Legislature. This award was authorized during the 2019 Mississippi Legislative session. See attached 2020 Grant Agreement for the above referenced project. Please sign and return an original to Sonja Slater, Tidelands Coordinator.

Thank you for making the Mississippi Gulf Coast a better place to live and work. Please feel free to contact me at any time should the Mississippi Department of Marine Resources be of service to you, (P)228-523-4011 or joe.spraggins@dmr.ms.gov.

In appreciation,

Joe Spraggins
Executive Director

cc: April Stennett

1141 Bayview Avenue • Biloxi, MS 39530-1613 • Tel: (228) 374-5000 • dmr.ms.gov

FY20-P618-02

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

Tidelands Grant Agreement
City of Gautier
FISCAL YEAR 2020

City of Gautier hereby agrees to expend funds as authorized by the Mississippi Legislature in H.B. 1656 2019 Regular Session and Mississippi Code Section 29-15-9.

The Mississippi Department of Marine Resources will disburse funds in the amount of **$ 250,000.00** for the Shepard State Park Upgrades, upon (1) receipt of this signed document; (2) MDMR possession of amended application with complete and final project designs and plans; (3) release of funds from the Mississippi Department of Finance and Administration; and (4) availability of said funds. The Mississippi Department of Marine Resources shall make progress payments in installments based on work completed and material used in the performance of a Tidelands project only after receiving written verification using Form TTF-3 (Attachment 1) and Form TTF-4 or Form TTF-5.

The **City of Gautier** agrees to:

1) Expend monies for the project as designated by the Legislature in H.B. 1656 2019 Regular Session Shepard State Park Upgrades and Mississippi Code Section 29-15-9 and be subject to an audit by the State Auditor.

2) Provide the Department of Marine Resources with detailed reports beginning January 31, 2020, and every six months thereafter for the duration of project, using the attached form TTF-4 (Attachment 2). Project reports will include:
   - -Final project design and budget
   - -Benefits to the public and community
   - -Visual presentation (photographs) of project
   - -Narrative description of project
   - - Description of Work Completed
   - - Milestones for Completion
   - - Funds expended (to include Tidelands and Matching Funds)

3) Provide the Department of Marine Resources with a Notification of Completion – TTF-5 (to be included in final payment request-Form TTF-3) to include a detailed final report of entire project, using the attached forms (Attachment 3).

4) Erect a prominent, permanent sign to be displayed at all funded public access and construction related projects. The sign shall read "Funds for this project appropriated by the Mississippi Legislature, 2020 Tidelands Trust Fund, through the Secretary of State, Delbert Hosemann, and the Mississippi Department of Marine Resources."

On behalf of the **City of Gautier** I have read, understand, and agree to all terms listed above, and recognize that failure to comply with any portion of this Grant Agreement could jeopardize the receipt of any future Tidelands Trust Funds Appropriations.

Joe Spraggins, Executive Director
Department of Marine Resources

10-19-19
Date

Phil Torjusen, Mayor
City of Gautier

Date

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi the following:

ORDER NUMBER 241-2019

WHEREAS, the State Homeland Security Grant Program (SHSGP) is used for law enforcement terrorism prevention program initiatives and is administered by the Mississippi Office of Homeland; and

WHEREAS, the State Homeland Security Grant Program (SHSGP) is used to aid in the training of emergency first responders, the purchase of equipment for combating and preventing terrorist acts and for planning, and exercise. The SHSGP funds are also used for management, administration and the development of Citizen Corps projects at the local level. Every year, the Mississippi Office of Homeland Security allocates available funds to local jurisdictions and state agencies; and

WHEREAS, The City of Gautier applied for the Homeland Security grant on behalf of the Gautier Police Department. The grant will provide portable radios for officers to replace old and outdated equipment. The total program budget is $41,000; and

WHEREAS, this grant does not require a local match.

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi that the City is hereby authorized to accept a 2019 Homeland Security Grant from the Mississippi Department of Public Safety, Office of Homeland Security.

IT IS FURHTER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To:	Paula Yancey, City Manager
From:	April Stennett, Grants Administrator
Date:	10/29/2019
Subject:	Acceptance of a 2019 Homeland Security Grant through the Mississippi Department of Public Safety, Office of Homeland Security

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REQUEST:

The Grants and Projects Department requests City Council authorization to accept a 2019 Homeland Security Grant from the Mississippi Department of Public Safety, Office of Homeland Security, to execute the required grant agreements and special conditions, and to execute other required grant attachments.

BACKGROUND:

The State Homeland Security Grant Program (SHSGP) is used for law enforcement terrorism prevention program initiatives and is administered by the Mississippi Office of Homeland Security. These grant funds are to be used to safeguard Mississippi's citizens from terrorist activities and are specifically designed to aid in the prevention efforts before such events can take place.

The money attained through the SHSGP is used to aid in the training of emergency first responders, the purchase of equipment for combating and preventing terrorist acts and for planning, and exercise. The SHSGP funds are also used for management, administration and the development of Citizen Corps projects at the local level. Every year, the Mississippi Office of Homeland Security allocates available funds to local jurisdictions and state agencies.

DISCUSSION:

The City of Gautier applied for the Homeland Security grant on behalf of the Gautier Police Department. The grant will provide portable radios for officers to replace old and outdated equipment. The total program budget is $41,000. This grant does not require a local match.

RECOMMENDATION:

The Grants and Projects Department recommends that City Council authorize accepting a 2019 Homeland Security Grant from the Mississippi Department of Public Safety, Office of Homeland Security, to execute the required grant agreements and special conditions, and to execute other required grant attachments.

The City Council may:
1) Approve acceptance of the grant award and authorize execution of required attachments as presented; or
2) Not approve acceptance of the grant award as presented.

ATTACHMENTS:

1. Designation of Subrecipient Grant Adminstrator Form
2. Cooperative Agreement
3. Award Letter, Subrecipient Grant Agmt, Grant Recipient Agmt, and Special Conditions

Designation of Sub-recipient Grant Administrator (SGA) STATE HOMELAND SECURITY PROGRAM

The following person is officially appointed to represent your jurisdiction as the *Sub-recipient* Grant Administrator (SGA) and is hereby duly authorized to fulfill the terms of this Cooperative Agreement during the performance period on behalf of the *Sub-recipient.*

Name: _____ Title: _____
(Sub-recipient Grant Administrator)

Organization Name: _____

Mailing Address: _____

City: _____ Zip Code _____

Telephone Number: ( ) _____ Fax Number: ( ) _____

Cellular Number: ( ) _____ Pager Number: ( ) _____

Email Address: _____

Appointed by: _____ Date: _____
(Print Name)

Signature: _____ Title: _____

STATE OF MISSISSIPPI
AND
GOVERNOR PHIL BRYANT

HOMELAND SECURITY COOPERATIVE AGREEMENT

Between

CITY OF GAUTIER POLICE DEPARTMENT

AND

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

HOMELAND SECURITY
COOPERATIVE AGREEMENT (CA)

On behalf of Governor Phil Bryant, this Cooperative Agreement is entered into between the Department of Public Safety, Office of Homeland Security, hereto referred to as *Recipient*, and the City of Gautier Police Department hereto referred to as Sub-recipient.

Article I. Purpose

The purpose of this Cooperative Agreement (CA) is to utilize 100% federal funding (no match required) provided through FEMA, U.S. Department of Homeland Security to enhance capabilities within the State of Mississippi to respond to acts of domestic and international terrorism including the use of weapons of mass destruction. The Department of Public Safety, Office of Homeland Security will accomplish this by prioritizing and facilitating the delivery and use of federal financial assistance as identified in the published Office for Domestic Preparedness Homeland Security Grant Program Guidance (attached). This enables the Sub-recipient to exercise management discretion and control in achieving the specified objectives of this Cooperative Agreement within the State of Mississippi. It is intended that this partnership will result in the development of a competent and sustainable system designed to provide prevention/deterrence and emergency response to a potential terrorism event within the State.

Article II. Budget Narrative

The objectives outlined within the performance period of this Cooperative Agreement will be supportive of the priorities defined in the State Homeland Security Three-Year Strategic Plan in the form of equipment, planning, training, exercise, management and administration funding and shall be in compliance with FEMA Homeland Security Grant Program Guidance.

Article III. Period of Performance

The period of performance for this Cooperative Agreement shall begin on the date of acceptance of the **SUBRECIPIENT AWARD** execution and shall continue through the period of SUBRECIPIENT AWARD unless terminated by the Department of Public Safety. Future SUBRECIPIENT AWARDS for supporting the requirements of the jurisdiction may be awarded under the terms of this agreement through additional sub grants so long as all signatory officials remain unchanged.

Article IV. Reports

The Quarterly Report and financial reports: Request for reimbursement is due within 30 days after each reporting quarter: 1st Quarter, October-December, 2nd Quarter, January-March; 3rd Quarter, April-June; 4th Quarter, July-September.

The Quarterly and Progress reports must be submitted so that progress can be tracked and outcomes evaluated.

Article V. Roles and Responsibilities

A. Local *Sub recipient General Guidance*

1. The local *Sub-recipient* shall develop and improve their capability to combat
   the affects of a terrorism event. This is accomplished through the purchase of specialized equipment as identified in the published OJP selected equipment list or support of planning, exercises or training activities associated with the prevention, response or recovery from terrorism incidents.

2. The chief elected official is responsible for committing to the terms of this CA, budgeting local funds to purchase equipment or support jurisdictional exercise, training and planning efforts for executing this CA on behalf of the Sub-recipient*'s* jurisdiction.

3. The Sub-Recipient shall designate a *Sub-recipient* public official as the Sub-recipient Grant Administrator (SGA) for developing and attaching the CA scope of work to Appendices A & B, obtaining project approval from respective officials, reporting, submitting applications to Recipient, equipment distribution, training, and obtaining and submitting supporting documentation and requests for reimbursement on behalf of the Sub-recipient to *Recipient* for repayment. **The SGA shall be responsible for reporting to the Mississippi Office of Homeland Security (MSOHS) via the Biannual Strategy Implementation Report (BSIR)**

B. Local Homeland Security Program Guidance

The Homeland Security Grant Program (HSGP) through the State Homeland Security Program (SHSP) provides funds for homeland security and emergency operations planning; the purchase of specialized equipment to enhance the capability of State and local agencies to prevent, respond to, and mitigate incidents of terrorism involving the use of chemical, biological, radiological, nuclear, and explosive (CBRNE) weapons and cyber attacks; for costs related to the design, development, and conduct of a State CBRNE and cyber security training programs and

attendance at ODP-sponsored CBRNE training courses; for costs related to the design, development, conduct, and evaluation of CBRNE and cyber security exercises; and for costs associated with implementing State Homeland Security Assessments and Strategies (SHSAS). See Annex A (Local Homeland Security Program) for specific guidance, policies, and reporting requirements.

C. State *Recipient*

1. The *Recipient* shall be the Department of Public Safety, Office of Homeland Security, acting on behalf of the State of Mississippi.

2. The Commissioner of the Department of Public Safety (DPS) or the Commissioner's Designee is the state signatory official and shall be the principal state official responsible for committing the state to the terms of this agreement. The DPS Commissioner, or his designee acting in the absence of the Commissioner, will exercise final approval authority of all *Sub-recipient* applications, grant awards, allocations, and requests for reimbursements and for ensuring overall *Recipient* administration.

3. The DPS, Office of Homeland Security, is designated the Recipient Point-of- Contact (POC) for assisting the *Sub-recipient* in developing the authorized equipment purchase list, specialized training requirements, and for providing overall day-to-day program management.

D. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms

The SAA will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps will include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration, the Minority Business Development Agency of the Department of Commerce and MS Development Authority Office of Minority Business.

6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

Article VI. Funding Consideration

The *Recipient* POC will receive and review *Sub-recipient's* application and forward to the SAA Director for approval. After approval the *Recipient* will issue a sub-recipient award letter, which authorizes the *Sub-recipient* to expend local funds and be reimbursed pursuant to the terms of this CA. **Local funds expended prior to the date of the award letter are not authorized to be reimbursed.**

When the *Sub-recipient* has expended funds awarded, the SGA will prepare and submit a Request for Reimbursement to the *Recipient POC.* This request shall contain all appropriate supporting documentation to substantiate expenses made in accordance with all applicable requirements. The *Recipient POC* will review the reimbursement package for completeness and forward to the *Recipient* Office of the Comptroller for payment.

A. The *Recipient* will not be liable under this Agreement for any amount greater than the award allocated by the Office for Domestic Preparedness to the State for the grant performance period.

B. No cost or obligation shall be incurred by the *Recipient* under this Agreement unless and until the *Recipient* advises the *Sub-recipient* in writing that the application has been approved and funds are available.

C. Reimbursement will be made by the *Recipient* to the *Sub-recipient* based on the **Mississippi Sub-recipient Reporting Worksheet.** Required documentation must accompany the worksheet.

D. Reimbursement is contingent upon the funds being expended in accordance with all applicable local and state regulations, as well as Federal regulations, policies, guidelines, and submission for reimbursement made in accordance with the SAA's grant policies and procedures manual.

E. *Sub-recipient's* requests for advance of funds to support purchases of equipment or other expenditures must be requested in writing to the recipient POC explaining the justification for the request. Reasons, i.e., shortage of local funds or items not contained in current annual jurisdictional budget must be accompanied by purchase orders.

F. *Sub-recipient's* Request for Reimbursement and other required financial reports will be submitted to the *Recipient* with a copy of all receipt(s) or invoices showing that authorized equipment or other expenditures such as personnel, supplies, etc. has been paid for in-full by *Sub-recipient* and attached to an approved grant application.

Article VII. Maintenance, Replacement costs and Use of Equipment, Sell & Disposal

A. Equipment purchased under the terms of this CA will be stored, maintained and used in accordance with the purpose and objectives of this Cooperative Agreement. The equipment may be used for terrorism training and exercise purposes and in response to an actual terrorism event. If the equipment is used in response to a non-terrorist related event, then any maintenance or replacement costs will be the sole responsibility of the *Sub-recipients*.

B. The sub-recipient is required to maintain an equipment inventory list that contains the following information: equipment description, identification/serial number, title holder, acquisition date, cost, percentage of federal funds used in the cost, location, use and condition, and disposition date.

C. Instructions on how to sell and/or dispose of equipment, please visit our website at www.homelandsecurity.ms.gov. (Click on the tab Grants / Grant Forms)

Article VIII. Nonperformance

Failure by the *Sub-recipient* to comply with the terms of this Cooperative Agreement may result in suspension from the program and loss of any outstanding grant fund allocation balance, as determined by the *Recipient*. Failure to expend all grant funds awarded (by date stated on Awards Letter) and to comply with Recipient request and guidelines will result in the reallocation of unspent grant funds and the immediate redistribution of all equipment purchased with grant funds. In addition, the failure to maintain adequate response capability (as determined by the MOHS) will also result in the reallocation of grant funds and the immediate redistribution of all equipment purchased with grant funds.

Article IX. Administrative Provisions

The *Recipient* and *Sub-recipient* agree to carry out the administrative and financial requirements of this Agreement in accordance with the policies and procedures established by FEMA and set forth in other applicable state and federal guides. The Biannual Strategy Implementation Report (BSIR) will update information on obligations, expenditures, and progress made on activities and will include an update of all information submitted in that report.

C. Other Provisions

1. Nothing in this agreement is intended to conflict with current laws or regulations of Mississippi or your jurisdiction. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

2. Sub-recipient is required to ensure that grant monies are used to support all Emergency Service related agencies and departments, specifically law enforcement, fire and rescue. Senior officials of these agencies must sign this agreement and familiarize themselves with the rules and regulations governing each grant program. They are encouraged to work together in determining and prioritizing their needs and requirements prior to submitting their plan.

3. If the sub-recipient (organization/jurisdiction) expends $750,000 or more in federal funds (from all sources including pass-through sub awards) in the sub-recipient's (organization/jurisdiction) fiscal year (12-month turnaround reporting period) is required to have a single organization/jurisdiction wide audit conducted in accordance with 2 CFR 200.

4. All final requests for reimbursement must be received in the Mississippi Office of Homeland Security no later than 45 days after the period of performance.

5. Sub-recipient is required to complete EHP Review as required for Equipment Purchases and any type of Construction.

6. All sub-recipients (and or jurisdictions) must also maintain membership in the Emergency Management Assistance Compact (EMAC) to facilitate the mutual aid of capabilities in order to be eligible for Department of Homeland Security (DHS) grant funding and reimbursement of DHS grant funds.

7. **Effective October 1, 2010 ALL sub-recipients are required to have and furnish a Dun and Bradstreet Data Universal Numbering System (DUNS) number to the Mississippi Office of Homeland Security as a component of the Article IX. A DUNS number is the nine digit number established and assigned by Dun and Bradstreet, Inc (D&B) to uniquely identify business entities. If your jurisdiction does not have a DUNS number, one may be obtained from D&B by**

telephone (currently 866-705-5711) or the Internet (currently at http://fedgov.dnb.com/webform).
NO GRANT AWARD LETTER WILL BE ISSUED WITHOUT THE SUB RECIPIENT HAVING A DUNS NUMBER.

Article X. Monitoring

A. Management Decision

Management will evaluate audit findings, questioned costs and corrective action plans. The issuance of a written decision will be issued to the sub-recipient, which will entail whether or not the audit finding is sustained; the reasons for the decision; the expected action of the sub-recipient to repay any disallowed costs, make financial adjustments or take other actions; the reference number(s) the auditor assigned to each audit finding; and a description of any appeal process available to the sub-recipient regarding the management decision, as required by 2 CFR 200.521. If the sub-recipient has not completed corrective action, a timetable follow-up will be given.

B. Audit Review Follow-Up

- Contacts sub-recipient(s) for additional information as needed.
- Determines course of action for federal program audit findings, financial statement audit findings, negative disclosures (such as financial capacity concerns) and schedule of expenditures of federal awards deficiencies. Depending on the issue or combination of issues, procedures may be modified to ensure efficient and effective resolution.
- Updates the status of each audit review until all follow-up actions are completed and the file is closed.

Article XI. Execution

IN WITNESS WHEREOF, the parties names herein have duly executed this Cooperative Agreement on the date set forth below:

SUBRECIPIENT: CITY OF GAUTIER POLICE DEPARTMENT ATTEST:

By: _____ Date: _____
Authorized Official

DUNS Number: _____

APPROVED: **State of Mississippi**

By: _____ Date: _____
Executive Director
Mississippi Office of Homeland Security

LAW ENFORCEMENT TERRORISM PREVENTION

GRANT PROGRAM

LOCAL HOMELAND SECURITY PROGRAM FISCAL YEAR 2019

TOTAL AWARD: **$41,000.00**

Allowable Equipment Costs

Allowable equipment categories for FY19 HSGP are listed on the web-based Authorized Equipment List (AEL) on the Responder Knowledge Base (RKB), which is sponsored by ODP and the Oklahoma City National Memorial Institute for the Prevention of Terrorism (MIPT) at http://www.rkb.us. The website is designed to provide emergency responders, purchasers, and planners with a trusted, integrated, online source of information on products, standards, certifications, grants, and other equipment related information. By integrating this information, which includes the Inter-Agency Board's (IAB) Standardized Equipment List (SEL) and the AEL from ODP, into one location, responders, vendors, standards organizations, training facilities, and grant making organizations have a trusted first source to answering questions such as:

- What equipment is on the market?
- Has it been certified?
- If so, to what standard?
- What training is needed to use it effectively?
- Are there experts available for consultation and questions?

The FY19 HSGP, AEL is housed on the RKB and relies heavily on the SEL developed by the IAB for Equipment Standardization and Interoperability. The 2019 AEL has been modified to facilitate cross-referencing of the SEL in an effort to eliminate redundancy. Both the AEL and SEL are available on the RKB, which also offers an interactive version that provides links to corresponding SEL items and commercial products. In some cases, items on the SEL are not allowable under FY19 HSGP or will not be eligible for purchase unless specific conditions are met. In addition, some items eligible under this grant program are beyond the scope of the SEL and thus will only appear in the AEL.

Planning Costs Allowable

SHSP funds may be used for a range of homeland security planning activities, including the following:

Developing and implementing homeland security support programs and adopting DHS national initiatives including but not limited to the following:

- Costs associated with the implementation and adoption HSPD-8 initiatives
- Costs associated with the implementation and adoption of NIMS
- Costs associated with the modifying existing incident management and emergency operations plans to ensure proper alignment with the NRP coordinating structures, processes, and protocols
- Establishment or enhancement of mutual aid agreements
- Development of communications and interoperability protocols and solutions
- Conducting local, regional, and tribal program implementation meetings
- Developing or updating resource inventory assets in accordance to typed resource definitions issued by the NIC
- Design state and local geospatial data systems
- Development of related critical infrastructure terrorism prevention activities including:
    - Planning for enhancing security during heightened alerts, during terrorist incidents and/or during mitigation and recovery
    - Public information/education: printed and electronic materials, public service announcements, seminars/town hall meetings, web postings coordinated through local Citizen Corps Councils
    - Citizen Corps activities in communities surrounding critical infrastructure sites, including Neighborhood Watch, VIPS, and other opportunities for citizen participation
    - Evaluating CIP security equipment and/or personnel requirements to protect and secure sites
    - CIP cost assessments, including resources (financial, personnel, etc.) required for security enhancements/deployments.

Develop and enhance plans and protocols, including but not limited to:

- Develop or enhance emergency operations plans and operating procedures
- Develop terrorism prevention/deterrence plans
- Develop plans, procedures, and requirements for the management of infrastructure and resources related to HSGP and implementation of State or Urban Area Homeland Security Strategies
- Develop or enhance border security plans
- Develop or enhance cyber security plans
- Develop or enhance cyber risk mitigation plans
- Develop or enhance agriculture/food security risk mitigation, response, and recovery plans
- Develop public/private sector partnership emergency response, assessment, and resource sharing plans
- Develop or update local or regional communications plans
- Development of plans to support and assist special needs jurisdictions, such as port authorities and rail and mass transit agencies
- Development or enhancement of continuity of operations and continuity of government plans
- Development or enhancement of existing catastrophic incident response and recovery plans to include and integrate federal assets provided under the NRP.

Develop or conduct assessments, including but not limited to:

- Conduct point vulnerability assessments at critical infrastructure sites/key assets and develop remediation/security plans
- Conduct cyber risk and vulnerability assessments
- Conducting assessments and exercises of existing catastrophic incident response and recovery plans and capabilities to identify critical gaps that cannot be met by existing local and state resources
- Activities which directly support the identification of specific catastrophic incident priority response and recovery projected needs
- Activities which directly support the identification and advance preparation of predesignated temporary housing sites; for example:
    - o Conducting assessments and studies to identify qualified candidate sites
    - o Obtaining accurate site surveys and existing utility information
    - o Coordinating zoning requirements and necessary permits and/or waivers
    - o Coordinating environmental impact requirements related to a selected site
    - o Coordinating historic preservation requirements related to a selected site.

Allowable Training Costs

Local jurisdictions may use HSGP funds to enhance the capabilities of state and local emergency preparedness and response personnel through development of a state homeland security training program. Allowable training-related costs under ODP grant programs include: 1) establishment of CBRNE terrorism and cyber security training programs within existing training academies, universities or junior colleges; and 2) overtime and backfill costs associated with attendance at ODP-sponsored and ODP approved CBRNE and cyber security training courses.

The target audience for training courses include emergency preparedness, prevention and response personnel, emergency managers and public/elected officials within the following disciplines: firefighters, law enforcement, emergency management, emergency medical services, hazardous materials, public works, public health, health care, public safety communications, governmental administrative, cyber security and private security providers. The homeland security training program should also include training for citizens in awareness, preparedness, prevention, response skills, and volunteer activities and be coordinated through state and local Citizen Corps Councils.
Local jurisdictions are encouraged to adopt current ODP awareness and performance level courses. In order to deliver these courses, state and local instructors must have been certified to deliver the course by successfully completing ODP train-the-trainer courses. Detailed descriptions of ODP courses are included in the *ODP CBRNE Training Course Catalog* at http://www.ojp.usdoj.gov/odp/docs/coursecatalog.pdf. Programs of instruction for these courses will be made available upon request to assist efforts to institutionalize these training programs at the state and local levels.

ODP will conduct periodic reviews of all state and urban area training funded by ODP. These reviews may include requests for all course materials and physical observation of participation in the funded training. If these reviews determine that courses are outside the scope of this guidance, recipients will be asked to reimburse grant fund expended in support of those efforts.

ODP provides the following definitions of key training terms to facilitate a common understanding of the FY19 HSGP guidance:

- **ODP Courses:** Those courses developed for and/or delivered by institutions and organizations funded by ODP.
- **Federal Courses Related to CBRNE Terrorism:** Those courses developed for and or delivered by institutions funded by federal entities other than ODP which fall within the ODP mission scope: of which is to prepare state and local personnel to prevent, respond to, and recover from acts of terrorism involving CBRNE weapons.
- **Non-Federal Courses:** Those courses developed for and or delivered by institutions or organizations other than federal entities or ODP.

In addition, local jurisdictions shall follow accepted principles of instructional systems design, employing the Analysis, Design, Development, Implementation, and Evaluation (ADDIE) model or equivalent methodologies. (The ADDIE process is explained in greater depth in the *ODP Blended Learning Strategy* available on the ODP website at: http://www.ojp.usdoj.gov/odp/blendedlearning.) Local jurisdictions shall apply these methodologies to ensure that complete curriculum exists for training funded by ODP grant. Complete curriculum consists of:

• **Level of Training.** The state or urban area will identify the level(s) of training of the course(s) and materials submitted. Each submission must be identified as Awareness, Performance–Defense (Occupational Safety and Health Administration (OSHA) Operations), Performance–Offensive (OSHA Technician), or Planning/Management (OSHA Incident Command) levels. More detailed descriptions of the levels can be found at http://www.ojp.usdoj.gov/odp/training.htm or http://www.osha.gov.

• **Program of Instruction/Syllabus.** The program of instruction or syllabus is an outline or matrix of the course content. It addresses the scope of the training, course learning objectives, duration of the training (broken-down by module, session, or lesson), resource requirements, instructor to student ratio and an evaluation strategy. These items are not all-inclusive, but are the minimum categories that should be addressed.

• **Training Support Package.** The training support package includes all of the materials associated with the delivery of a training course. The following items should be included:

- o **Instructor Guide/Instructor Outline/Instructor Lesson Plans:** The published instructor material that contains course text and special instructor notes that provides the information to deliver the material

- o **Participant Manual/Guide/Workbook**: The published student material that contains the supporting information in booklet or handout form that the participant has available for reference
- o **Audio/Visual Support Materials:** Any audio/visual components that are part of any learning module, session, lesson, or that supports the overall training being delivered
- o **Special Support Materials:** Any descriptions of practical exercises, tabletop exercises, hands-on exercises, or other material that supports learning objectives

• **Module/Session/Lesson Content.** Training courses should be designed based on a building block approach. Each sub-component in the course should be titled as a module, session, or lesson. Regardless of the title, each module, session, or lesson, should have a Lesson Administration Page that outlines the following:

- o **Scope Statement:** A brief description of the content of the module, session or lesson
- o **Terminal Learning Objectives:** An action verb statement that outlines what the participant is expected to learn or be capable of performing at the conclusion of the module, session, or lesson. There should be only one terminal learning objective per module, session, or lesson
- o **Enabling Learning Objectives:** Enabling learning objectives are the incremental learning objectives that support the terminal learning objective. There should be at least one enabling learning objective per module, session or lesson. Each enabling learning objective must be a measurable performance statement that enables the participant to demonstrate achievement of the terminal learning objective
- o **Resource List:** A listing of the resources needed to successfully accomplish the module, session, or lesson
- o **Instructor to Participant Ratio:** The instructor to participant requirement for successful presentation of the material (e.g., 1:25)
- o **Reference List**: A listing of all reference materials used to develop the module, session, or lesson (This information may also be included as a bibliography).
- o **Practical Exercise Statement:** This describes any exercises associated with the module, session, or lesson
- o **Evaluation Strategy:** This defines the strategy used to evaluate the module, session, or lesson (e.g., written and/or performance test).

Conditional Approvals of Non-ODP Courses. In contrast to FY04, no conditional approvals, in advance of an independent third-party subject matter expert (SME) review, will be granted in FY19 for use of ODP funds to develop or institutionalize non-ODP courses. ODP will require local jurisdictions to adhere to a streamlined course approval process. Please see *Appendix E: Overview of Approval Process for Non-ODP Developed Courses* for more information. Courses will either be approved or disapproved following this review process.

Attending Other Federal Courses Related to CBRNE Terrorism. Local jurisdictions are no longer required to submit requests for personnel to attend certain Federal courses that fall within the ODP mission scope of preparing state and local personnel to prevent,

respond to, and recover from acts of terrorism involving CBRNE weapons. In lieu of requesting approval, local jurisdictions will be required to submit information on all federal training they are supporting with ODP funds via the Training section of the ODP website (http://www.ojp.usdoj.gov/odp/training.htm). This information will consist of course title, level of the training, the training provider, the date of the course, the number of individuals to be trained, and the sponsoring jurisdiction.

Several broad categories of courses will automatically be included in the list of eligible federal courses:

- All NIMS training approved by the NIMS Integration Center (NIC) is eligible for use of ODP funds.
- All Incident Command System (ICS) training offered through the National Fire Academy and the Emergency Management Institute is eligible for use of ODP funds. This guidance applies to resident training, train-the-trainer, and field delivery of courses.

A list of federal courses that fall within the ODP mission scope is included in *Appendix F: Federal Training Course List.*

These courses must build additional capabilities that 1) meet a specific need identified through the homeland security assessment process, and 2) comport with the State or Urban Area Homeland Security Strategy.

Federal funds must be used to supplement—not supplant—existing funds that have been appropriated for the same purpose. Thus, if the state or urban area has already budgeted for personnel to attend courses, ODP funds may only be used to send additional individuals above and beyond those previously budgeted.

Eligibility of Hazardous Materials Courses. Hazardous materials courses, including basic, operations, and technician level courses, are eligible for support through ODP funds **only if the course *fully* addresses the hazardous materials sections included in the *ODP Emergency Responder Guidelines* and the *ODP Homeland Security Guidelines for Prevention and Deterrence*.** If the hazardous materials course does ***not fully*** address the hazardous materials sections included in the *ODP Emergency Responder Guidelines* and the *ODP Homeland Security Guidelines for Prevention and Deterrence*, then the course is not considered an allowable use of ODP funds.

The training must not supplant existing resources, but rather must build additional capabilities above and beyond those that currently exist. Any additional capabilities pursued through these training opportunities must meet a specific need identified through the homeland security assessment process and must comport with the State or Urban Area Homeland Security Strategy.

Eligibility of Search and Rescue, Special Weapons and Tactics (SWAT), and Medical Trauma Courses. On September 1, 2004, ODP issued Information Bulletin #132 on the

Interagency Security Plan, available at http://www.ojp.usdoj.gov/odp/docs/bulletins.htm. In this bulletin, ODP expanded the allowable use of grant funds to support additional training in the areas of search and rescue, SWAT, and medical trauma provided certain requirements were met. The following sections provide further detail on these initiatives.

• *Eligibility of Search and Rescue Courses:* Local jurisdictions shall conduct search and rescue training in compliance with:

- o NFPA 1670, *Standard on Operations and Training for Technical Rescue and Search Incidents*
- o NFPA 1006, *Standard for Rescue Technician Professional Qualifications* Only Urban Search and Rescue (USAR) courses approved by FEMA and delivered by FEMA-certified providers are eligible for use of ODP funds. A list of these courses and providers will be maintained by ODP in coordination with FEMA.

The training must not supplant existing resources, but rather must build additional capabilities above and beyond those that currently exist. Any additional capabilities pursued through these training opportunities must meet a specific need identified through the homeland security assessment process and must comport with the State or Urban Area Homeland Security Strategy.

If the basic, foundational USAR course fully addresses the fire service and or hazardous materials sections included in the *ODP Emergency Responder Guidelines* and the *ODP Homeland Security Guidelines for Prevention and Deterrence*, no additional CBRNE-specific training is necessary for eligibility purposes. However, if the foundational USAR course does **not** fully address these sections included in the *ODP Emergency Responder Guidelines* and the *ODP Homeland Security Guidelines for Prevention and Deterrence*, then the student must also complete follow-on CBRNE awareness training within a reasonable timeframe in order for the USAR course to be considered an allowable use of ODP funds.

These USAR courses are intended to build a critical capacity at the state and local levels. **The execution of this training in the stated capacity-building context is unrelated to designation of national USAR teams. Therefore, local jurisdictions and UASI jurisdictions may not request such designation based on training.**

• *Eligibility of SWAT Courses:* SWAT courses, including basic, foundational courses, are eligible for support through ODP funds, provided that the training meets the following requirements:

- o The training must not supplant existing resources, but rather must build additional capabilities above and beyond those that currently exist. Any additional capabilities pursued through these training opportunities must meet a specific need identified through the homeland security assessment process and must comport with the State or Urban Area Homeland Security Strategy.
- o Local jurisdictions shall conduct training in compliance with state and local regulations and policies governing the certification of SWAT personnel.

- o Trainees shall be sworn officers and shall have completed a Basic SWAT school accredited by the appropriate state-level criminal justice organization.
- o Training shall be conducted by instructors certified by a state or national level criminal justice organization
- o The State or Urban Area shall develop and implement a safety plan excluding service ammunition and weapons from the training site and shall not employ live chemical agents (to include OC) or impact weapons during the training
- o If a foundational SWAT course fully addresses the law enforcement sections included in the *ODP Emergency Responder Guidelines* and the *ODP Homeland Security Guidelines for Prevention and Deterrence*, no additional CBRNE-specific training is necessary for eligibility purposes. However, if the foundational SWAT course does **not** fully address the law enforcement sections included in the *ODP Emergency Responder Guidelines* and the *ODP Homeland Security Guidelines for Prevention and Deterrence,* then the student must also complete follow-on CBRNE awareness training within a reasonable timeframe in order for the foundational SWAT course to be considered an allowable use of ODP funds.

• *Eligibility of Medical Trauma Courses:* Medical trauma courses—including basic, foundational courses—are eligible for support through ODP funds, provided that the training meets the following requirements:

- o The training must not supplant existing resources, but rather must build additional capabilities above and beyond those that currently exist. Any additional capabilities pursued through these training opportunities must meet a specific need identified through the homeland security assessment process and must comport with the State or Urban Area Homeland Security Strategy.
- o Local jurisdictions shall conduct training in compliance with NFPA 473, *Standard Competencies for EMS Personnel Responding to Hazardous Materials Incidents.*
- o Local jurisdictions shall conduct training in compliance with state and local regulations and policies governing the certification of EMS providers.
- o Local jurisdictions shall coordinate their efforts with the closest MMRS jurisdiction.
- o Trainees shall have completed a basic Emergency Medical Technician (EMT) certification per the state or local accreditation requirements. This type of training may not be funded with ODP monies.
- o If a foundational medical trauma course fully addresses the emergency medical services sections included in the *ODP Emergency Responder Guidelines* and the *ODP Homeland Security Guidelines for Prevention and Deterrence,* no additional CBRNE-specific training is necessary for eligibility purposes. However, if the foundational medical trauma course does **not** fully address the emergency medical services sections included in the *ODP Emergency Responder Guidelines* and the *ODP Homeland Security Guidelines for Prevention and Deterrence,* then the student Must also complete follow-on CBRNE awareness training within a reasonable timeframe in order for the foundational medical trauma course to be considered an allowable use of ODP funds.

Evaluation of ODP Training Courses. The goal of evaluating ODP training courses is to determine how much a participant's knowledge, skills, and abilities change after completion of a course relative to knowledge, skills, and abilities prior to the class. ODP utilizes a self-assessment methodology and collects information via a standardized evaluation form. The form is designed to gather data about the course and participant, including data such as the participant's professional discipline and years of service. Additionally, the evaluation measures the participant's knowledge relative to a set of standardized learning objectives both before and after taking the course.

If a state or local jurisdiction uses ODP funds to provide ODP-approved courses, the state or local jurisdiction must use the standard evaluation form to collect data about the course and its participants. An ODP-approved course is defined as one developed by the state or local jurisdiction and approved by ODP for delivery. If the state or local jurisdiction receives training through its ODP course allocation, the training partner delivering the course is responsible for data collection and entry. Similarly, if the state or local jurisdiction enters into a direct contract with one of the ODP training partners, training partner is still responsible for the data collection and entry function.

However, if the ODP-sponsored course is delivered by a state or local organization, the course provider is responsible for collecting data on the course and its participants. As part of the course approval process, the course developer establishes a set of course objectives directly tied to the course content. The objectives are incorporated into the standardized course evaluation form. Course participants are required to complete all fields and the course instructor is responsible for ensuring that all forms are complete. Course providers are granted access to and enter data into the ODP Secure Portal. Costs related to developing and administering the self-assessment and collecting information via a standardized evaluation form is allowable.

Allowable Exercise Costs

Exercises conducted with ODP support (grant funds or direct support) must be managed and executed in accordance with the Homeland Security Exercise and Evaluation Program (HSEEP). HSEEP Volumes I-III contain guidance and recommendations for designing, developing, conducting, and evaluating exercises. HSEEP Volumes I-III can be found at ODP's website at http://www.ojp.usdoj.gov/odp/exercises.htm. Volume IV, which contains sample exercise materials and documents, can be found on ODP's Secure Portal at https://odp.esportals.com or http://www.llis.gov.

Exercise Planning Workshop. Local jurisdictions must conduct an annual Exercise Planning Workshop (EPW) to examine the progress and effectiveness of their current exercise strategy and program. A Multiyear Exercise Plan and schedule must be produced from the EPW and submitted through ODP's Secure Portal Exercise Scheduler located at https://odp.esportals.com. Refer to HSEEP Volume III, Chapter 2 for further guidance on EPWs and the Multiyear Exercise Plan and schedule.

Exercise Scenarios. The scenarios used in SHSP, UASI, and LETPP-funded exercises must be terrorism-related and based on the state's/urban area's homeland security strategy and plans. Acceptable scenarios for exercises include: chemical, biological, radiological, nuclear, explosive, cyber and agricultural. Recipients that need further clarification on scenarios should consult with their ODP Exercise Manager for assistance and/or approval. Fifteen all-hazards National Planning Scenarios, including twelve terrorism scenarios, have been developed, and will be made available for use in national, federal, state, and local homeland security preparedness activities. Citizen participation in exercises is encouraged to include back filling non-professional tasks for first responders deployed on exercise, administrative and logistical assistance with exercise implementation, and providing simulated victims, press, and members of the public. Citizen participation in exercises should be coordinated with local Citizen Corps Council(s).

Recipients that wish to expend funds on models, simulations, or games (MS&G) must consult with "Review of Models, Simulations, and Games for Domestic Preparedness Training and Exercising, Volume III," which provides an overview and analysis of existing models, simulations and games. This report is available at http://www.ojp.usdoj.gov/odp/exercies.htm

Recipients must justify the purchase and use of a given MS&G product/service, by a) documenting the training and/or exercise objective(s), b) documenting how the selected product/service will support those objectives, and c) justification for the chosen product category (potentially referring to Volume III benefits/limitations). The form for this justification can be found at http://www.ojp.usdoj.gov/odp/exercises.htm.

If a state or urban area will be hosting an upcoming special event (e.g., Superbowl, G-8 Summit, etc.), or they anticipate that they will apply to be a venue for a future Top Officials (TOPOFF) exercise, they should plan to use SHSP or UASI funding to fund training and exercise activities in preparation for that event.

All tabletop exercises (TTXs), drills, functional exercises (FEs), and full-scale exercises (FSEs) will be evaluated and performance based. An After Action Report (AAR) and Improvement Plan will be prepared and submitted to DHS/ODP following every TTX, drill, FE, and FSE. AAR/IPs must be provided to ODP within 60 days following completion of each exercise (see HSEEP Volume II, Appendix A). Currently, these AAR/IPs can be submitted through the ODP Secure Portal. However ODP is working with other agencies to develop a national reporting system. ***A state or local jurisdiction that conducts an exercise using SHSP, UASI, and LETPP funds must follow the HSEEP doctrine and protocol contained in Volume II.***

Local jurisdictions are encouraged to develop a self-sustaining State Homeland Security Exercise and Evaluation Program which is modeled after the national HSEEP. This may include, for example: hiring dedicated exercise program staff, awareness seminars on HSEEP, attending exercise training courses, and maintaining a system to track the completion and submission of AARs and Improvement Plans from exercises (including costs associated with meeting with local units of government to define procedures).

Allowable Management and Administrative Costs

All programs within HSGP have allowable M&A costs for both the state-level as well as the local unit of government, urban area, or designated sub-recipient.

- **SHSP, UASI, LETPP, CCP, MMRS:** No more than ***5% of the total amount*** allocated to the state for each program within HSGP may be retained at the state level and used for M&A purposes. These state M&A funds must be included in the total funds retained by the state. In addition, local jurisdiction sub-recipients may retain and use up to ***5% of their sub-award*** for local M&A purposes.

Unauthorized Program Expenditures

Unauthorized program expenditures include: 1) expenditures for items such as general use software (word processing, spreadsheet, graphics, etc), general-use computers (other than for allowable M&A activities, or otherwise associated preparedness or response functions) and related equipment, general-use vehicles, licensing fees, weapons systems and ammunition; 2) activities unrelated to the completion and implementation of the SHSP; 3) other items not in accordance with the Authorized Equipment List or previously listed as allowable costs; and, 4) construction or renovation of facilities.

STATE OF MISSISSIPPI
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF HOMELAND SECURITY

PHIL BRYANT
GOVERNOR

MARSHALL L. FISHER
COMMISSIONER

October 28, 2019

Grants and Project Director April Stennett
City of Gautier Police Department
3330 Hwy 90
Gautier, MS 39553

Dear State Homeland Security Grant Recipient:

Enclosed you will find your Homeland Security Grant Program Award Letter and Grant Recipient Agreement for the Fiscal Year 2019. These funds in the amount of $41,000.00 are for the purpose of purchasing Portable Radios as related to the Mississippi Office of Homeland Security initiatives. Please thoroughly read the Cooperative Agreement and make sure that you complete the following documents:
41,0

1. Awards Letter
2. Special Conditions Form
3. Article XI Execution form (Do not leave off your DUNS number)
4. Designation of Subgrantee Grant Administrator (SGA)
5. Scope of Work (Budget Narrative)
6. Completed Budget Detail Worksheets
7. Audit and Implementation Forms
8. 2019 Nationwide Cybersecurity Review Completion Verification

All forms are provided on the flash drive; along with example templates. All mentioned documents are required to be in this office no later than **December 15, 2019.** Failure to return all signed and required documentation by the above date will result in the reallocation of these funds.

Please contact our office if you should have any questions. You may reach me at 601-346-1504.

Regards,

Marsha Manuel

Marsha Manuel, Grants Director

MM/rds

POST OFFICE BOX 958 · JACKSON, MISSISSIPPI 39205-0958 · TELEPHONE 601-346-1500 · FAX 601-346-1521 ·
www.homelandsecurity.ms.gov

STATE OF MISSISSIPPI
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF HOMELAND SECURITY

PHIL BRYANT
GOVERNOR

MARSHALL L. FISHER
COMMISSIONER

SUBRECIPIENT GRANT AWARD

Subrecipient: **CITY of GAUTIER POLICE DEPARTMENT**
(Portable Radios)

Project Title(s): Homeland Security Grant Program

Grant Period: 10-01-19 – 06-30-20 Date of Award: 09-24-19

Total Amount of Award: **$41,000.00** Grant No.: **19LE192**

In accordance with the provisions of Federal Fiscal Year 2019 Homeland Security Grant Program, the Mississippi Office of Homeland Security (MOHS), State Administrative Agency (SAA), hereby awards to the foregoing Subrecipient a grant in the federal amount shown above. The CFDA number is 97.067 and MOHS federal grant number is **EMW-2019-SS-00009**. Authorizing Authority for Program: Section 2002 of the *Homeland Security Act of 2002*, as amended (Pub. L. No. 107-296), (6 U.S.C. 603).

Payment of Funds: The original signed copy of this Award must be signed by the Official Authorized to Sign in the space below and returned to the MOHS **no later than December 15, 2019**. **The grant shall be effective upon return of this form and final approval the MOHS of the grant budget and program narrative.** Grant funds will be disbursed to subgrantees (according to the approved project budget) upon receipt of evidence that funds have been invoiced and products received and/or that funds have been expended (i.e., invoices, contracts, itemized expenses, etc.).

I certify that I understand and agree that funds will only be expended for those projects outlined in the funding amounts as individually listed above. I also certify that I understand and agree to comply with the general and fiscal terms and conditions of the grant including special conditions and the Mississippi Department of Public Safety, Office of Homeland Security, Homeland Security Grant Program, Policies and Procedures Manual; to comply with provisions of the Act governing these funds and all other federal laws and regulations; that all information is correct; that there has been appropriate coordination with affected agencies; that I am duly authorized to commit the applicant to these requirements; that costs incurred prior to grant application approval will result in the expenses being absorbed by the subrecipient; and that all agencies involved with this project understand that all federal funds are limited to a twelve-month period.

Supplantation: The Act requires that subrecipients provide assurance that subrecipient funds will not be used to supplant or replace local or state funds or other resources that would otherwise have been available for homeland security activities. In compliance with that mandate, I certify that the receipt of federal funds through the MOHS shall in no way supplant or replace state or local funds or other resources that would have been made available for homeland security activities.

ACCEPTANCE FOR THE SUBRECIPIENT

Signature of Official Authorized to Sign

Jerry Williams
Signature of MOHS Director

SUBRECIPIENT AWARD NOTICE: THIS AWARD IS SUBJECT TO THE GRANT SPECIAL CONDITIONS AND FINAL APPROVAL BY THE MOHS OF THE SUBRECIPIENT'S GRANT PROGRAM BUDGET AND NARRATIVE.

GRANT RECIPIENT AGREEMENT

1. The designated representative certifies that he/she has legal authority to receive assistance.

2. The Applicant shall provide all necessary financial and managerial resources to meet the terms and conditions of receiving Federal and State assistance.

3. The Applicant shall use awarded funds solely for the purpose for which these funds are provided and as approved by the DPS Authorized Representative.

4. The Applicant is aware of and shall comply with cost-sharing requirements, if applicable.

5. The Applicant shall establish and maintain a proper accounting system to record expenditures of awarded funds in accordance with generally accepted accounting standards and OMB Circulars 2 CFR 200 as applicable and/or as directed by the DPS Authorized Representative.

6. The Applicant shall comply with the Single Audit Act of 1984 and will provide copies of audit reports when issued, 44CFR Part 14.

7. The Applicant shall give State and Federal agencies designated by the DPS Authorized Representative access to and the right to examine all records and documents related to use of award funds.

8. The Applicant shall return to the State, within thirty (30) days of such request by the DPS Authorized Representative, any advance funds which are not supported by audit or other Federal or State review of documentation by the Applicant.

9. The Applicant shall comply with all applicable provisions of Federal and State laws and regulations in regard to procurement of goods and services.

10. The Applicant shall comply with regulations implementing the Drug-Free Workplace Act of 1988, 44CFR Part 17, Subpart F.

11. The Applicant shall comply with all Federal and State statutes and regulations relating to non-discrimination.

12. The Applicant shall comply with provisions of the Hatch Act limiting political activities of public employees and 44CFR Part 18, New Restrictions on Lobbying.

13. The Applicant shall comply, as applicable, with provisions of the Davis-Bacon Act relating to labor standards.

14. The Applicant shall not enter into any contracts or purchase merchandise from any party or vendor which is disbarred or suspended from participating in Federal assistance programs.

_____ _____

Grant Recipient Representative Date

MISSISSIPPI OFFICE OF HOMELAND SECURITY

STATE HOMELAND SECURITY GRANT PROGRAM SPECIAL CONDITIONS

* *

1. All sub-grantees must comply with the National Incident Management System (NIMS) minimum requirements as specified in the Fiscal Year 2006 Homeland Security Grant Program Guidelines and Application Kit, page 47-48. By September 30, 2006, all jurisdictions must be fully NIMS compliant. FY06 and FY07 Homeland Security grant funds are contingent on NIMS compliance.

2. All sub-grantees must comply and be familiar with Homeland Security Presidential Directive-8, with regards to the IED Scenario, as mandated by the Office of Domestic Preparedness.

3. All sub-grantees are required to modify their existing incident management and emergency operations plans in accordance with the National Response Plan's coordinating structures, processes, and protocols.

4. All sub-grantees are required by the Office of Domestic Preparedness to use the Global Justice Data Model specifications and guidelines regarding the use of XML for all HSGP awards.

5. Prior to the obligation or expenditure of any funds awarded through this grant, the Sub-recipient must become a legal signatory of the Statewide Mutual Agreement, maintained by the STATE EMERGENCY MANAGEMENT AGENCY. Furthermore, the Sub-grantee agree and understand that by allowing any agency to receive direct or indirect support from these grant funds without becoming a legal signatory to the said agreement is a direct violation of the terms and conditions of this grant award.

6. All SHSP sub-grantees must fully engage citizens by expanding plans and task force memberships to address citizen participation; awareness and outreach to inform and engage the public; include citizens in training and exercise; and develop or expand programs that integrate citizen/volunteer support for the emergency responder disciplines.

7. Recurring costs/fees are not allowable for funding under the 2006 HSGP. Internet service fees, radio service fees, cellular phone fees, satellite phone fees, etc. paid for with grant funds are for 12 months during the year of equipment purchase only.

8. Position descriptions for each person to be paid with grant funds and organizational chart identifying grant funded position(s).

9. A physical inventory of property and equipment (as defined in Section IV, D.) must be taken and the results reconciled with the property control form at least once every two years. This report must be prepared and submitted by the sub-recipient to the SAA by January 31 of each year beginning in calendar year 2016.

10. The MOHS requires that property acquired with grant funds be tagged and tracked using a computer-based inventory system.

11. The FCC has chosen the Project 25 suite of standards for voice and low-moderate speed data interoperability. In an effort to realize improved interoperability, all radios purchased under this grant should be APCO 25 compliant.

12. The Budget Worksheet and/or Budget Narrative pages for this grant need to be revised before obligation of any grant funds.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above conditions.

_____ _____

Signature of the Chief Executive Officer Date

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 242-2019

WHEREAS, the Martin Bluff Roadway Improvements Project (STP-9194-00(001)LPA/105069-811000) is intended to provide improved traffic operations and safety on Martin Bluff Road; and

WHEREAS, the project limits are between Gautier Vancleave Road and the Service Road north of Interstate 10; and

WHEREAS, the project is intended to provide improved traffic operations and safety on Martin Bluff Road; and

WHEREAS, the Mississippi Department of Transportation (MDOT) approval has been received; and

WHEREAS, the attached advertisement will run in the Clarion Ledger on November 11th and November 18th with the bid opening on December 11, 2019; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the City is hereby authorized to advertise for bids for the Martin Bluff Roadway Improvements Project.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager
From: April Stennett, Grants Administrator
Date: 10/29/2019
Subject: Authorization to Advertise for Bid for the Martin Bluff Roadway Improvements Project

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REQUEST:
The Grants and Projects Department requests authorization to advertise for bid for the Martin Bluff Roadway Improvements Project (STP-9194-00(001)LPA/105069-811000).

BACKGROUND:
This project is intended to provide improved traffic operations and safety on Martin Bluff Road. The project limits are between Gautier-Vancleave Road and the Service Road north of Interstate 10.

DISCUSSION:
If approved, this advertisement will publish in the *Clarion Ledger* on Nov. 11, 2019 and Nov. 18, 2019. Bids will be opened at 10 a.m. on Dec. 11, 2019. The Mississippi Department of Transportation has given authority to advertise and has approved the advertisement.

RECOMMENDATION:
The Grants and Projects Department recommends that City Council authorize advertising for bid for the Martin Bluff Roadway Improvements Project (STP-9194-00(001)LPA/105069-811000).

The City Council may:
1) Approve the advertisement as presented; or
2) Not approve the advertisement as presented.

ATTACHMENTS:
1. Advertisement for Bid
2. MDOT Ad Authority

Section 901

ADVERTISEMENT FOR

BIDS Jackson County,

MISSISSIPPI

Federal Aid Project No. STP-9194-00(001)LPA/105069-801000

The City of Gautier, Jackson County, Mississippi, will receive bids for the widening and reconstruction of Martin Bluff Road for a total project length of 2.1 miles, Federal Aid Project No. STP-9194-00(001)LPA/105069-801000 no later than 10 a.m., Local Time, Wednesday, December 11, 2019, at the City Council Chambers located at 3330 US-90, Gautier Mississippi. All bids so received will be publicly opened and read aloud.

The work shall consist essentially of the following items:

> Reconstruction of Martin Bluff Road from a two-lane roadway with open ditches, to a three-lane roadway with curb and gutter, and subsurface drainage from Gautier-Vancleave Road to Roys Road, mill and overlay from Roys Road to Interstate 10 Frontage Road, traffic signal improvements, and water/sewer relocations.

The above general outline of features of the work does not in any way limit the responsibility of the contractor to perform all work and furnish all plant, labor, equipment and materials required by the specifications and the drawings referred to therein.

The attention of bidders is directed to the Contract Provisions governing selection and employment of labor. Minimum wage rates for Federal-Aid projects have been predetermined by the Secretary of Labor and are subject to Public Law 87-581 Work Hours Act of 1962, as set forth in the Contract Provisions.

The City of Gautier of Jackson County hereby notifies all Bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged and women's business enterprises will be afforded the full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The award of this contract will be contingent upon the Contractor satisfying the DBE/WBE requirements.

The contract Documents are on file and may be examined at the following locations:

1. 3330 US-90, Gautier, Mississippi 39553.
2. Michael Baker International, 3113 Government St. Suite D-3, Ocean Springs, Mississippi 39564
3. www.mbakerplanroom.com

Each bid shall be accompanied by a Cashier's check, Certified Check on a solvent bank or a Bidder's Bond issued by a Surety Company licensed to operate in the State of Mississippi, in the amount of five percent (5%) of the total bid price, payable to the City of Gautier as bid security. Bidders shall also submit a current financial statement, if requested by the County. The successful bidder will be required

to furnish a Performance Bond and a Payment bond each in the amount of one hundred percent (100%) of the contract amount.

The proposal and contract documents **in its entirety** shall be submitted in a sealed envelope and deposited with Sherry Farabee, Purchasing Agent, 3330 US-90, Gautier, Mississippi prior to the hour and date above designated. **No stripped bids will be accepted.**

Bidders choosing to submit electronically are required to contact Michael Baker International at 228-818-2839 for information regarding electronic bidding requirements.

Bid documents are being made available via paper or digital copy. Plan holders are required to log-on or register for an account at www.mbakerplanroom.com to view and order Bid Documents. All plan holders are required to have a valid email address for registration. Bid documents are non-refundable and must be purchased through the website. For anyone interested in submitting bids electronically in place of a sealed bid, they may do so only through www.mbakerplanroom.com. Questions regarding website registration, online orders or electronic bidding, please contact Plan House Printing at (228) 248-0181.

Each electronically submitted bid must be submitted in "pdf" format and shall contain the same information and forms as required for the paper bids. Note – electronic bids must be secured with a bid bond. In the event that an electronically submitted bid has a corrupted attachment, the bid will be considered null and void.

Work to be performed shall be in accordance with the "Mississippi State Highway Standard Specifications for Road and Bridge Construction, 2017", together with all amendments and/or special provisions and/or addenda to the standards duly approved and adopted, unless otherwise noted in these specifications.

The attention of Bidders is directed to the provisions of Subsection 102.07 pertaining to irregular proposals and rejection of bids.

CITY OF GAUTIER, JACKSON COUNTY,
MISSISSIPPI

BY_____

PAULA YANCEY, CITY MANAGER
CITY OF GAUTIER, JACKSON COUNTY

PUBLISH: 11/11/2019 and 11/18/2019

901-2

Melinda L. McGrath
Executive Director

P. O. Box 1850
Jackson, MS 39215-1850
Telephone (601) 359-7001
FAX (601) 359-7110
GoMDOT.com

MDOT
MISSISSIPPI DEPARTMENT OF TRANSPORTATION

James A. Williams, III
Deputy Executive Director/Chief Engineer
Lisa M. Hancock
Deputy Executive Director/Administration
Willie Huff
Director, Office of Enforcement
Charles R. Carr
Director, Office of Intermodal Planning

October 10, 2019

Ms. Paula Yancey
City Manager, City of Gautier
3330 Highway 90
Gautier, MS 39553

RE: STP-9194-00(001)LPA/105069-801000 - Authority to Advertise
Jackson County

Dear City Manager Yancey:

This letter confirms that the Federal Highway Administration and the Mississippi Department of Transportation have received and approved the PS&E Package submitted and hereby authorize the advertisement for receipt of bids on the subject project which is for Reconstruction of Martin Bluff Road from Gautier-Vancleave Road to Frontage Road. No changes are to be made to the proposal before advertising without submission and approval by MDOT and FHWA, as applicable. Additionally, all Addenda must also be approved. Any unapproved changes will result in non-participating costs in the contract.

In the advertisement, receipt of bids and opening of bids, the following criteria must be met:

1. The date of the first ad must be within 60 days from the date of this letter. Failure to advertise within this time frame will result in the funding authority being de-obligated and authority to advertise is rescinded.
2. The advertisement must be published in a newspaper having statewide distribution, once a minimum of three weeks prior to the scheduled receipt of bids, and the second time a minimum of two weeks prior to the scheduled receipt of bids. One **Sworn Proof** of Publication is furnished us. At the present time, the only newspaper with Statewide distribution is the Clarion-Ledger in Jackson. Refer to the first paragraph of the PDM in Chapter 6, and consult your District LPA Coordinator for guidance in setting these dates.
3. Bidding procedures on a nondiscriminatory basis must be afforded to all qualified bidders regardless of State boundaries. You can not require any license or certificate that would restrict competition, or prevent submission of a bid or prohibit consideration of a bid submitted by any responsible contractor, whether resident or nonresident of Mississippi. Please see the attached copy of Page 9 Federal-Aid Policy Guide (Transmittal 2) dated April 7, 1992, 23 CFR 635A Section 635.110 – Licensing and qualification of contractors.
4. Proposals must be opened and read publicly at the time and at the place indicated in the proposal and/or advertisement. Do not accept a stripped proposal. The bidders must return the entire proposal that you sold to them, plus any addendums and their bid bond. Proposals received after the time for opening of bids must be returned to the bidder unopened.
5. All proposals opened must be filed prior to the time and at the place specified in the proposal and/or in the advertisement.
6. Before award, the successful bidder must have obtained a State Privilege License from the State Department of Revenue.

7. Notice to Bidders No. 7 (DBE's in Federal-Aid Highway Construction) and Supplement to Notice to Bidders 7 are a part of this contract. The Section titled 'Directory' refers to the current list of Certified DBE Contractors and Certified DBE Suppliers/Manufacturers published monthly by MDOT on the website www.gomdot.com. The DBE firm must be on the Department's list of "Certified DBE Contractors" that is posted online at the time the job is let and approved by MDOT to count towards meeting the DBE goal.
8. The DBE Goal for this project is 5%.
9. Refer to Chapter 6: MDOT Authorization and LPA Selection of a Contractor, in the on-line PDM (www.gomdot.com, Projects, Local Public Agencies), for guidance to request concurrence in the award or to reject bids and re-advertise.
10. The award of the contract or the rejection of all bids submitted is subject to the concurrence of the Mississippi Department of Transportation. Awarded projects shall not be executed prior to concurrence by MDOT.

When the dates for advertisement and receipt of bids in accordance with the foregoing are established, please furnish this information to the District LPA Engineer, David Seyfarth, 16499#B Highway 49 North Trailer, Saucier, MS 39574, and District Engineer, Mr. Kelly Castleberry, P.O. Box 551, Hattiesburg, Mississippi 39403. This notification is essential in order that representatives of the Department may be present at this opening of bids.

For your information, Chapter 474, General Laws of Mississippi as amended by Chapter 393, General Laws of Mississippi provides that nothing therein shall apply to highway construction, highway bridges, overpasses, and any other project incidental to the construction of highways which are designated as federal aid projects and federal funds are involved; therefore the Certificate of Responsibility requirements of this law are not applicable to a Local Public Agency (LPA) Project designated as a federal aid project where federal funds are involved.

The LPA's prorated share of the project cost will be based on the low bid, estimated cost of the contingencies and construction engineering, if applicable, and that share amount will be provided by MDOT in the Concurrence in Award Letter.

Sincerely,

Lee Frederick, P. E.
State LPA Engineer

TLF:phm

cc: Commissioner Tom King
Assistant to the Executive Director
LPA Division
Construction Division
Central File
District Engineer
District LPA Engineer (Seyfarth, Starita)
Federal Highway Administration
Michael Baker International

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 243-2019

WHEREAS, the United States Department of Agriculture (USDA) provides loan guarantees to eligible private lenders to help build essential community facilities in rural areas; and

WHEREAS, an essential community facility is defined as a facility that provides an essential service to the local community for the orderly development of the community in a primarily rural area, and does not include private, commercial or business undertakings; and

WHEREAS, funds can be used to purchase, construct, and/or improve essential community facilities, purchase equipment and pay related project expenses; and

WHEREAS, this loan would be used to purchase three Dodge Chargers, with all necessary equipment, for the Gautier Police Department; and

WHEREAS, these vehicles have been budgeted.

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the City is hereby authorized to apply for a USDA Rural Development Community Facilities Loan for the purchase of police vehicles.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To:	Paula Yancey, City Manager
From:	April Stennett, Grants Administrator
Date:	10/29/2019
Subject:	Authorization to Apply for a USDA Rural Development Community Facilities Loan for the Purchase of Police Vehicles

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REQUEST:

The Grants and Projects Department requests that the City Council authorize the filing of a USDA Rural Development Community Facilities Loan for the purchase of police vehicles.

BACKGROUND:

This program provides loan guarantees to eligible private lenders to help build essential community facilities in rural areas. An essential community facility is defined as a facility that provides an essential service to the local community for the orderly development of the community in a primarily rural area, and does not include private, commercial or business undertakings. Funds can be used to purchase, construct, and/or improve essential community facilities, purchase equipment and pay related project expenses.

DISCUSSION:

This loan would be used to purchase three Dodge Chargers, with all necessary equipment, for the Gautier Police Department. These three vehicles have been budgeted.

RECOMMENDATION:

City staff recommends that City Council authorize the filing of a USDA Rural Development Community Facilities Loan for the purchase of police vehicles.

The City Council may:
1) Authorize the application for loan funding as presented; or
2) Not authorize the application for loan funding as presented.

ATTACHMENTS:

1. Fact Sheet

USDA United States Department of Agriculture

Rural Development

Community Facilities Direct Loan & Grant

What does this program do?

This program provides affordable funding to develop essential community facilities in rural areas. An essential community facility is defined as a facility that provides an essential service to the local community for the orderly development of the community in a primarily rural area, and does not include private, commercial or business undertakings.

Who may apply for this program?

Eligible borrowers include:

- Public bodies
- Community-based nonprofit corporations
- Federally recognized Tribes

What is an eligible area?

Rural areas including cities, villages, townships and towns including Federally Recognized Tribal Lands with no more than 20,000 residents according to the latest **U.S. Census Data** are eligible for this program.

How may funds be used?

Funds can be used to purchase, construct, and/or improve essential community facilities, purchase equipment and pay related project expenses.

Examples of essential community facilities include:

- Healthcare facilities such as hospitals, medical clinics, dental clinics, nursing homes or assisted living facilities
- Public facilities such as town halls, courthouses, airport hangars or street improvements
- Community support services such as child care centers, community centers, fairgrounds or transitional housing
- Public safety services such as fire departments, police stations, prisons, police vehicles, fire trucks, public works vehicles or equipment
- Educational services such as museums, libraries or private schools
- Utility services such as telemedicine or distance learning equipment
- Local food systems such as community gardens, food pantries, community kitchens, food banks, food hubs or greenhouses

For a complete list see Code of Federal Regulations 7 CFR, Part 1942.17(d) for loans; **7 CFR, Part 3570.62** for grants.

What kinds of funding are available?

- Low interest direct loans
- Grants
- A combination of the two above, as well as our **loan guarantee program**. These may be combined with commercial financing to finance one project if all eligibility and feasibility requirements are met.

What are the funding priorities?

Priority point system based on population, median household income

- Small communities with a population of 5,500 or less
- Low-income communities having a median household income below 80% of the state nonmetropolitan median household income.

What are the terms?

Funding is provided through a competitive process.

Direct Loan:

- Loan repayment terms may not be longer than the useful life of the facility, state statutes, the applicants authority, or a maximum of 40 years, whichever is less.
- Interest rates are set by Rural Development, contact us for details and current rates.
- Once the loan is approved, the interest rate is fixed for the entire term of the loan, and is determined by the median household income of the service area.
- There are no pre-payment penalties.
- Contact us for details and current interest rates applicable for your project.

Community Facilities Direct Loan & Grant

What are the terms? (continued)

Grant Approval:

Grant funds must be available. Applicant must be eligible for grant assistance, which is provided on a graduated scale with smaller communities with the lowest median household income being eligible for projects with a higher proportion of grant funds. Grant assistance is limited to the following percentages of eligible project costs:

Maximum of 75 percent when the proposed project is:

- Located in a rural community having a population of 5,000 or fewer; and
- The median household income of the proposed service area is below the higher of the poverty line or 60 percent of the State nonmetropolitan median household income.

Maximum of 55 percent when the proposed project is:

- Located in a rural community having a population of 12,000 or fewer; and
- The median household income of the proposed service area is below the higher of the poverty line or 70 percent of the State nonmetropolitan median household income.

Maximum of 35 percent when the proposed project is:

- Located in a rural community having a population of 20,000 or fewer; and
- The median household income of the proposed service area is below the higher of the poverty line or 80 percent of the State nonmetropolitan median household income.

Maximum of 15 percent when the proposed project is:

- Located in a rural community having a population of 20,000 or fewer; and
- The median household income of the proposed service area is below the higher of the poverty line or 90 percent of the State nonmetropolitan median household income. The proposed project must meet both percentage criteria. Grants are further limited.

Are there additional requirements?

- Applicants must have legal authority to borrow money, obtain security, repay loans, construct, operate, and maintain the proposed facilities
- Applicants must be unable to finance the project from their own resources and/or through commercial credit at reasonable rates and terms
- Facilities must serve rural area where they are/will be located
- Project must demonstrate substantial community support
- Environmental review must be completed/acceptable

How do we get started?

Contact your **local offices** to discuss your specific project. Applications are accepted year round

Who can answer questions?

Contact our **local office** that serves your area.

What governs this program?

- Direct Loan: 7 CFR Part 1942, Subpart A
- Grant: 7 CFR Part 3570, Subpart A

NOTE: Because citations and other information may be subject to change please always consult the program instructions listed in the section above titled "What Law Governs this Program?" You may also contact **your local office** for assistance. You will find additional forms, resources, and program information at **www.rd.usda.gov**. ***USDA is an equal opportunity provider, employer, and lender.***

Last Updated February 2015

There came for consideration of a Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 244-2019

WHEREAS, when Jackson County was awarded the bid for the Martin Bluff Bridge replacement, it was discussed that AT&T cables in the right-of-way needed to be relocated; and

WHEREAS, the City of Gautier acquired the right-of-way for the bridge replacement, therefore the city must issue the permit to AT&T to relocate the cables to another location in the City of Gautier right-of-way.

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the approval of a permit application for use and occupancy agreement for the construction or adjustment of a utility within City Road Right-Of-Way. is hereby authorized and approved.

IT IS FURTHER ORDERED that the City Manager and City Clerk are authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin**, seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: City Council

From: Paula Yancey, City Manager

Date: October 29, 2019

Subject: Approval of the Permit Application for use and occupancy agreement for the construction or adjustment of a utility within City Road Right-of -Way

---

REQUEST:
The City Manager is requesting the approval of the Permit Application for use and occupancy agreement for the construction or adjustment of a utility within City Road Right-of -Way

BACKGROUND:
After the County awarded the bid for the Martin Bluff Bridge replacement, it was discussed that AT&T cables in the right-of-way needed to be relocated. The City acquired the right-of-way for the bridge replacement, therefore the City must issue the permit to AT&T to relocate the cables to another spot in the City Right-of-Way in order for the bridge project to proceed.

DISCUSSION:
Sean Murphy, MGR OSP PLNG, ENG, & DESIGN has agreed to place two copper cables along the Eastside of Martin Bluff Rd. from P113 South of Brookside Dr. to Fairway Dr.

RECOMMENDATION:
1. The City Manager recommends the City Council approve the Permit Application for use and occupancy agreement for the construction or adjustment of a utility within City Road Right-of -Way; or
2. Not approve the the Permit Application for use and occupancy agreement for the construction or adjustment of a utility within City Road Right-of -Way

ATTACHMENT(S):
1. Permit Application

FORM-SA ROW-U2
(Rev. 07-01-2005)

PERMIT APPLICATION FOR USE AND OCCUPANCY AGREEMENT
FOR THE CONSTRUCTION OR ADJUSTMENT OF A UTILITY
WITHIN ~~COUNTY~~ City ROAD RIGHT-OF-WAY

PROJECT NO. 04C00003N COUNTY JACKSON

UTILITY NAME AT&T,

BY Sean Murphy MGR OSP PLNG, ENG, & DESIGN,
(Name & Company Title)

ADDRESS 1723 22nd Av Gulfport, MS 39501, herein called APPLICANT,

proposes to construct 2 COPPER CABLES
(Type of Facility)

along or across MARTIN BLUFF Road, said facility to be
(Name of Road)

installed between Station No. Brookside Dr and Station No. Fairway Dr and within the road right-of-way, and hereby makes application to the ~~County~~ City for the construction permit. Attached hereto are drawings or plans for the construction, which will not be changed or altered without approval of the ~~Board of Supervisors~~ City Council, or its authorized representative.

WHEREAS, the Legislature of Mississippi has heretofore granted to the Applicant the right to locate its facilities upon, across, under, over and along public roads and streets within the State of Mississippi; Applicant agrees to comply with applicable provisions of S.O.P. No. SA II-2-8, Policy for the Accommodation of Utility Facilities within the Rights-of-Way of ~~County Federal Aid~~ and State Aid Roads (hereinafter referred to as the "Policy"), promulgated by the State Aid Engineer and dated July 1, 2005, and which is hereby made a part of this Application Agreement, and agrees to perform the construction according to the applicable industry code and according to the plans and specifications for the project.

The Applicant shall be responsible for future maintenance and repair of the facilities. The Applicant shall make future adjustments in, or relocate, the facilities located within the road right-of-way when required for road widening, construction or maintenance, and its right to reimbursement of its costs shall be in accordance with State Laws affecting ~~County~~ City roads in effect at the time such adjustment or relocation is made. Further, any maintenance, repair, or construction shall be done in such a manner as to occasion no unreasonable interference with the normal flow and safety of traffic.

FORM-SA ROW-U2
(Rev. 07-01-2005)

WITNESS THE SIGNATURE OF THE APPLICANT this the 17TH day of October, 2019.

Sean Murphy

By: Sean Murphy

Title: MGR OSP PLNG, ENG, & DESIGN

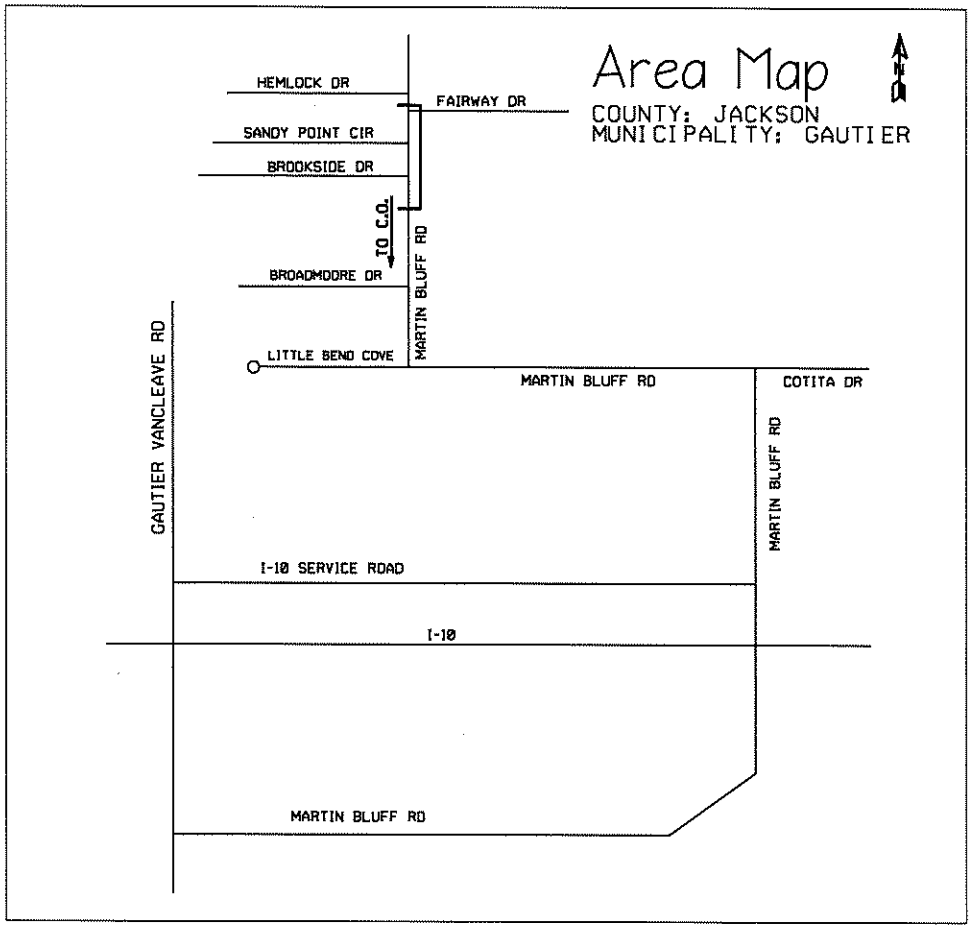
AGREED TO AND APPROVED BY ORDER OF THE _____

~~COUNTY BOARD OF SUPERVISORS~~ this the _____ day of _____, _____.

By: _____
County/LSBP Engineer

SYMBOL LEGEND

Proposed	Existing	Description
		AERIAL CABLE
B	B	BURIED CABLE
BJ	BJ	BUR JOINT-TRENCH
		BST POLE
		POWER POLE
		ANCHOR & GUY
PB	PB	PUSH BRACE
		ENCLOSURE
		ENCLOSURE
		MANHOLE
		PIPE/CONDUIT
CA-MKR	CA-MKR	CABLE MARKER
		AERIAL SVC WIRE
B	B	BURIED SVC WIRE
BJ	BJ	JOINT-TRENCH SVC
	N/A	BORE
	N/A	CUT PAVEMENT
	N/A	SPLICING PIT
200'@(24")	N/A	TRENCH LEN@DEPTH



ATTSE

PROPOSED TELEPHONE FACILITIES ON RIGHT OF WAY OF JACKSON COUNTY

MARTIN BLUFF RD

Exchange: GAUTIER 497

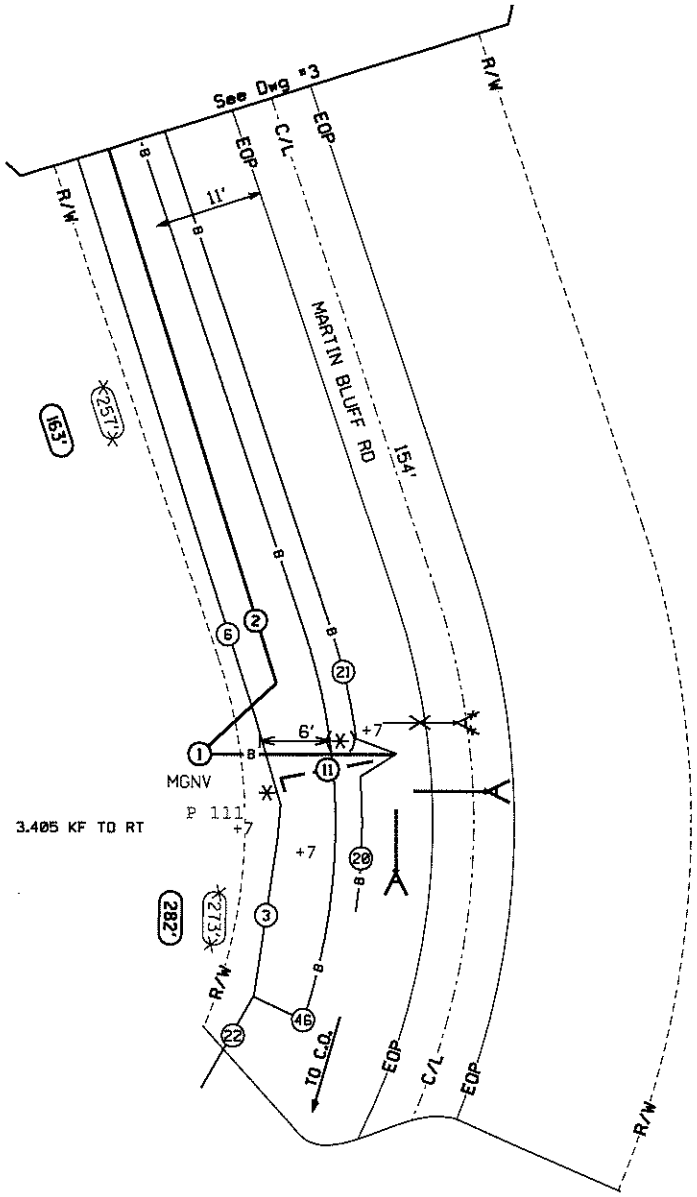
Designer: SEAN MURPHY

Phone: 228-868-5021

Authorization: 04C00003N

Dwg. 1 of 10

1 CABLE
2 PROPOSED AERIAL CABLE
3 CABLE
6 CABLE
11 SVC WIRE
20 CABLE
21 CABLE
22 CABLE
46 CABLE



ATTSE

PROPOSED TELEPHONE FACILITIES ON RIGHT OF WAY OF JACKSON COUNTY

MARTIN BLUFF RD

Exchange: GAUTIER 497

Designer: SEAN MURPHY

Phone: 228-868-5021

Authorization: 04C00003N

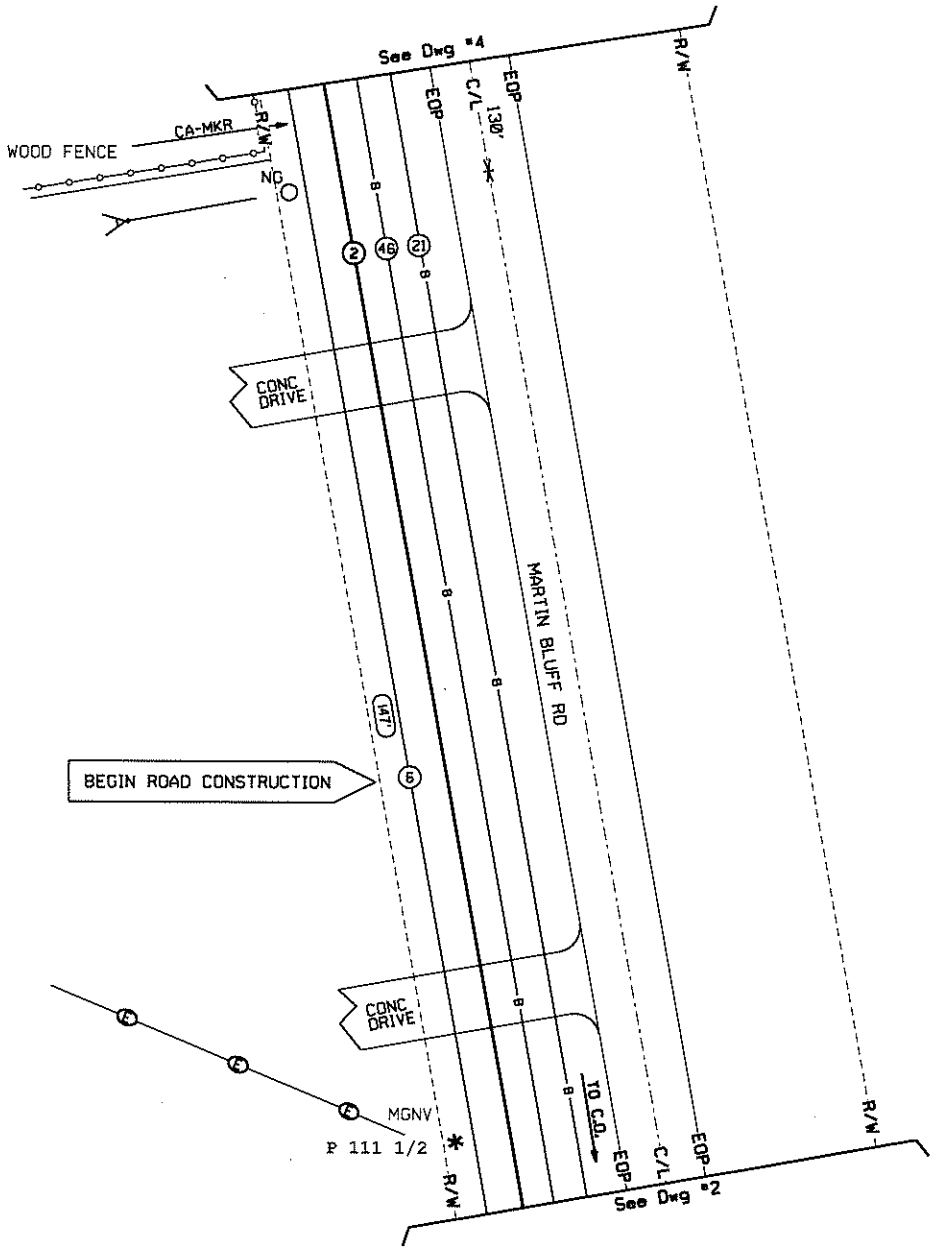
Dwg. 2 of 10

(2) PROPOSED AERIAL CABLE

(6) CABLE

(21) CABLE

(46) CABLE



ATTSE
PROPOSED TELEPHONE FACILITIES ON RIGHT OF WAY OF JACKSON COUNTY MARTIN BLUFF RD
Exchange: GAUTIER 497
Designer: SEAN MURPHY
Phone: 228-868-5021
Authorization: 04C00003N
Dwg. 3 of 10

② PROPOSED AERIAL CABLE
③ CABLE
④ CABLE
⑤ CABLE
⑥ CABLE
⑦ CABLE
㉑ CABLE
㊵ CABLE
㊶ CABLE
㊷ CABLE
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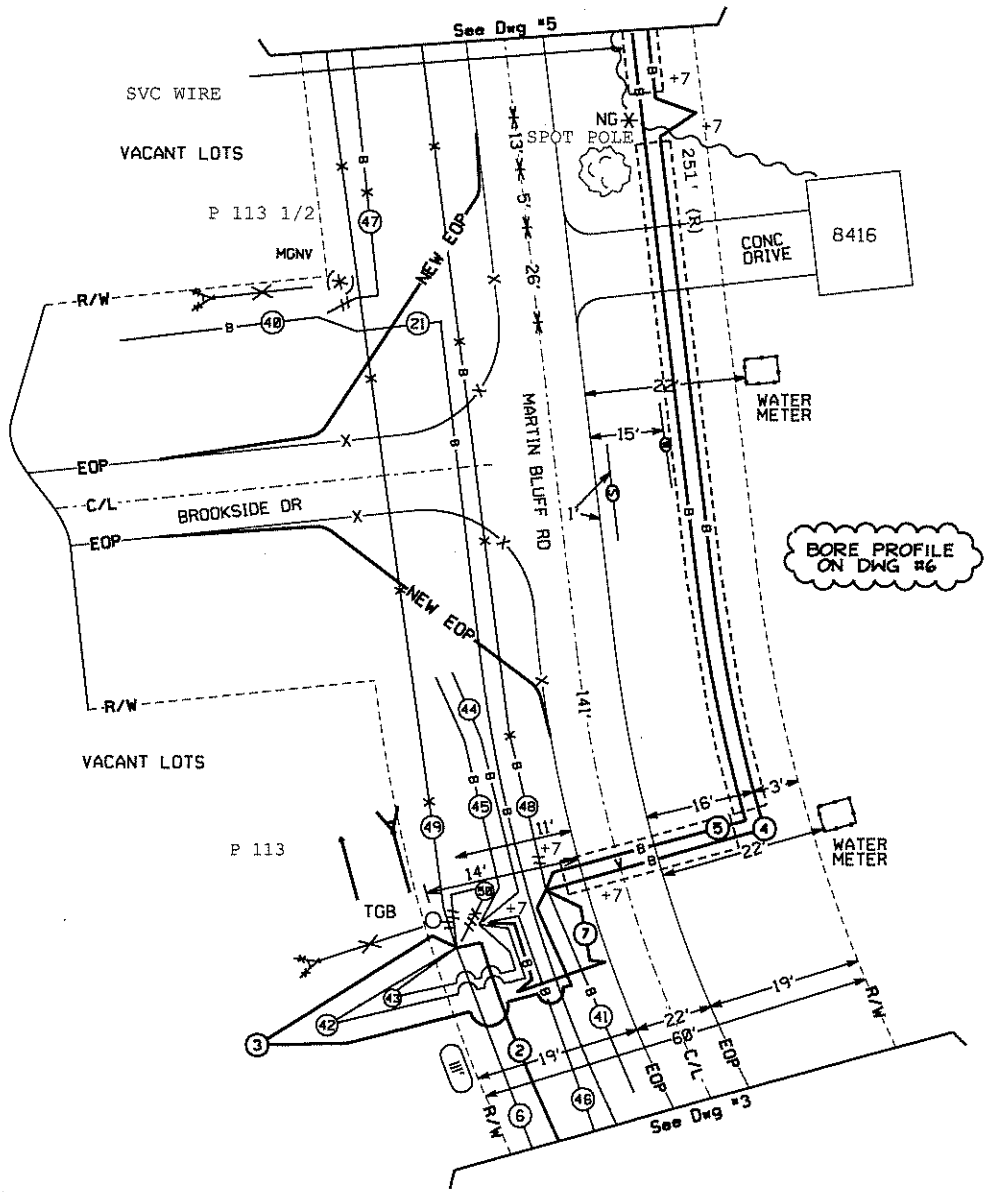
㊽ CABLE
㊾ CABLE
㊿ CABLE



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PROPOSED TELEPHONE FACILITIES ON RIGHT OF WAY OF JACKSON COUNTY

MARTIN BLUFF RD

Exchange: GAUTIER 497

Designer: SEAN MURPHY

Phone: 228-868-5021

Authorization: 04C00003N

Dwg. 4 of 10

(4) CABLE

(5) CABLE

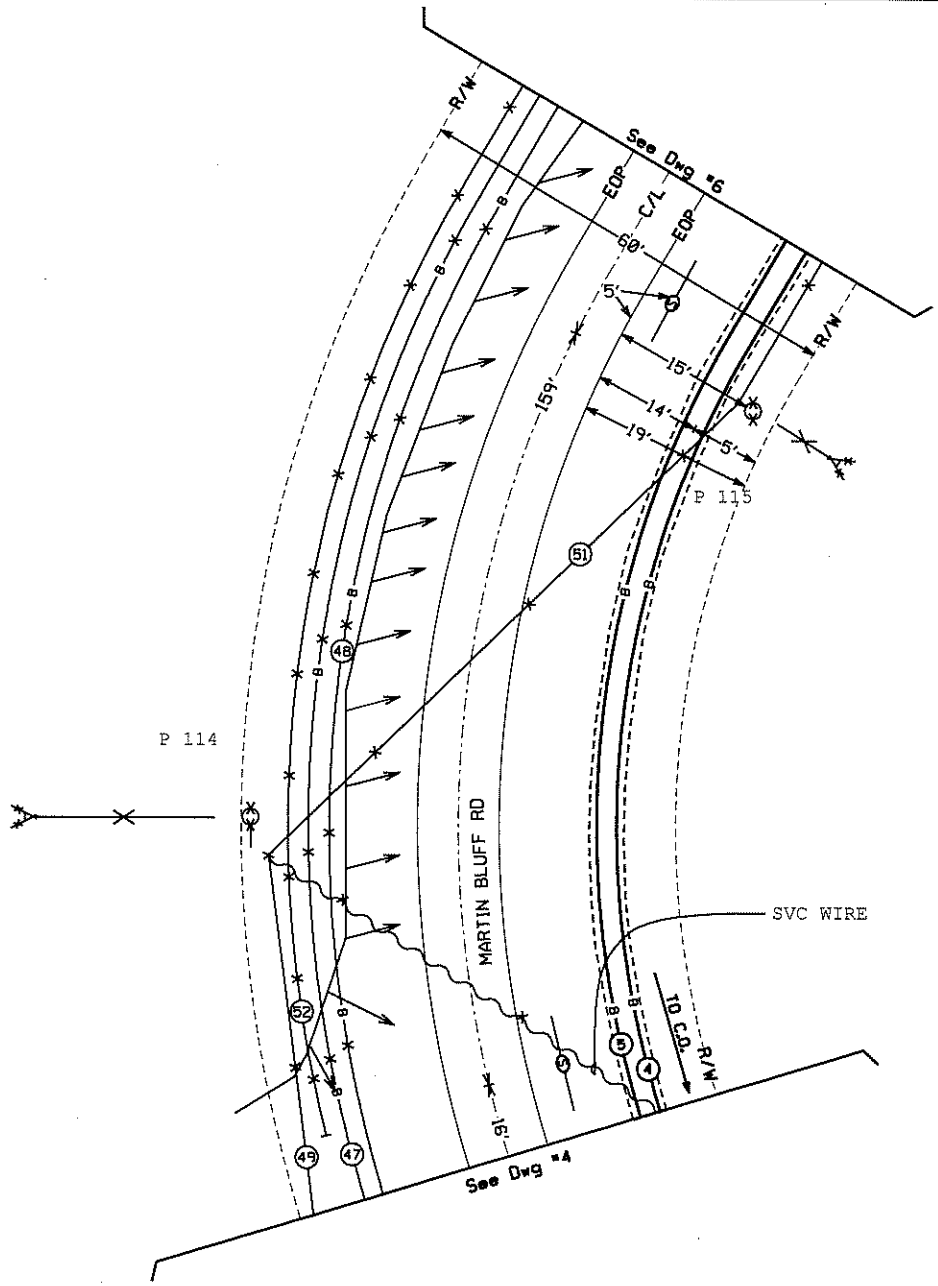
(47) CABLE

(48) CABLE

(49) CABLE

(51) CABLE

(52) CONDUIT



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PROPOSED TELEPHONE FACILITIES ON RIGHT OF WAY OF JACKSON COUNTY

MARTIN BLUFF RD

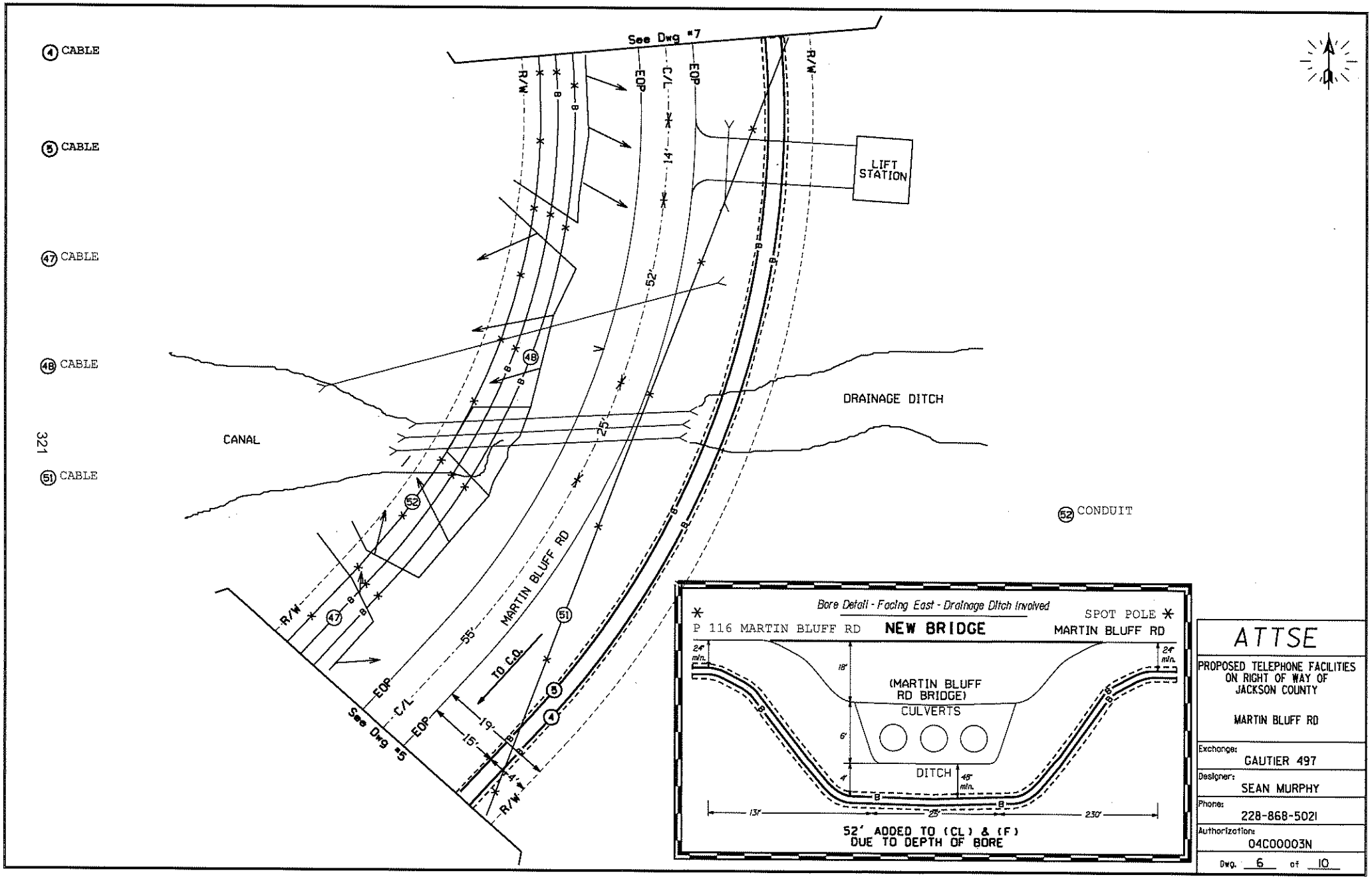
Exchange: GAUTIER 497

Designer: SEAN MURPHY

Phone: 228-868-5021

Authorization: 04C00003N

Dwg. 5 of 10


4 CABLE
5 CABLE
47 CABLE
48 CABLE
51 CABLE
52 CONDUIT
See Dwg #7
See Dwg #5
R/W
EOP
C/L
14'
52'
25'
55'
19'
15'
4'
LIFT STATION
DRAINAGE DITCH
CANAL
MARTIN BLUFF RD
TO C.O.
Bore Detail - Facing East - Drainage Ditch Involved
P 116 MARTIN BLUFF RD
NEW BRIDGE
SPOT POLE
MARTIN BLUFF RD
24" min.
18'
(MARTIN BLUFF RD BRIDGE)
CULVERTS
6'
DITCH
48" min.
131'
25'
230'
52' ADDED TO (CL) & (F) DUE TO DEPTH OF BORE
ATTSE
PROPOSED TELEPHONE FACILITIES ON RIGHT OF WAY OF JACKSON COUNTY
MARTIN BLUFF RD
Exchange: GAUTIER 497
Designer: SEAN MURPHY
Phone: 228-868-5021
Authorization: 04C00003N
Dwg. 6 of 10

4 CABLE

5 CABLE

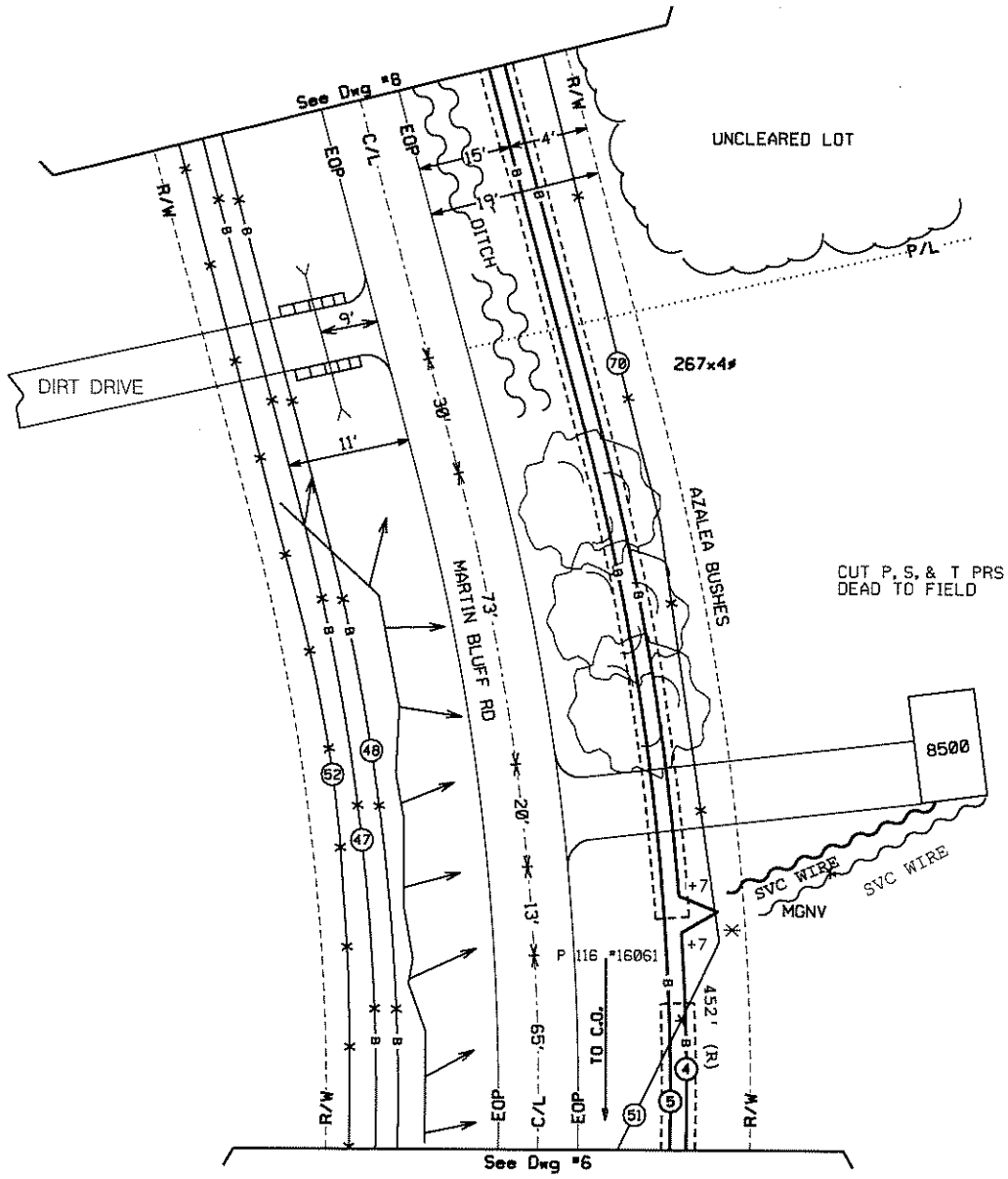
47 CABLE

48 CABLE

51 CABLE

52 CONDUIT

70 CABLE



ATTSE
PROPOSED TELEPHONE FACILITIES ON RIGHT OF WAY OF JACKSON COUNTY MARTIN BLUFF RD
Exchange: GAUTIER 497
Designer: SEAN MURPHY
Phone: 228-868-5021
Authorization: 04C00003N
Dwg. 7 of 10

(4) CABLE

(5) CABLE

(47) CABLE

(48) CABLE

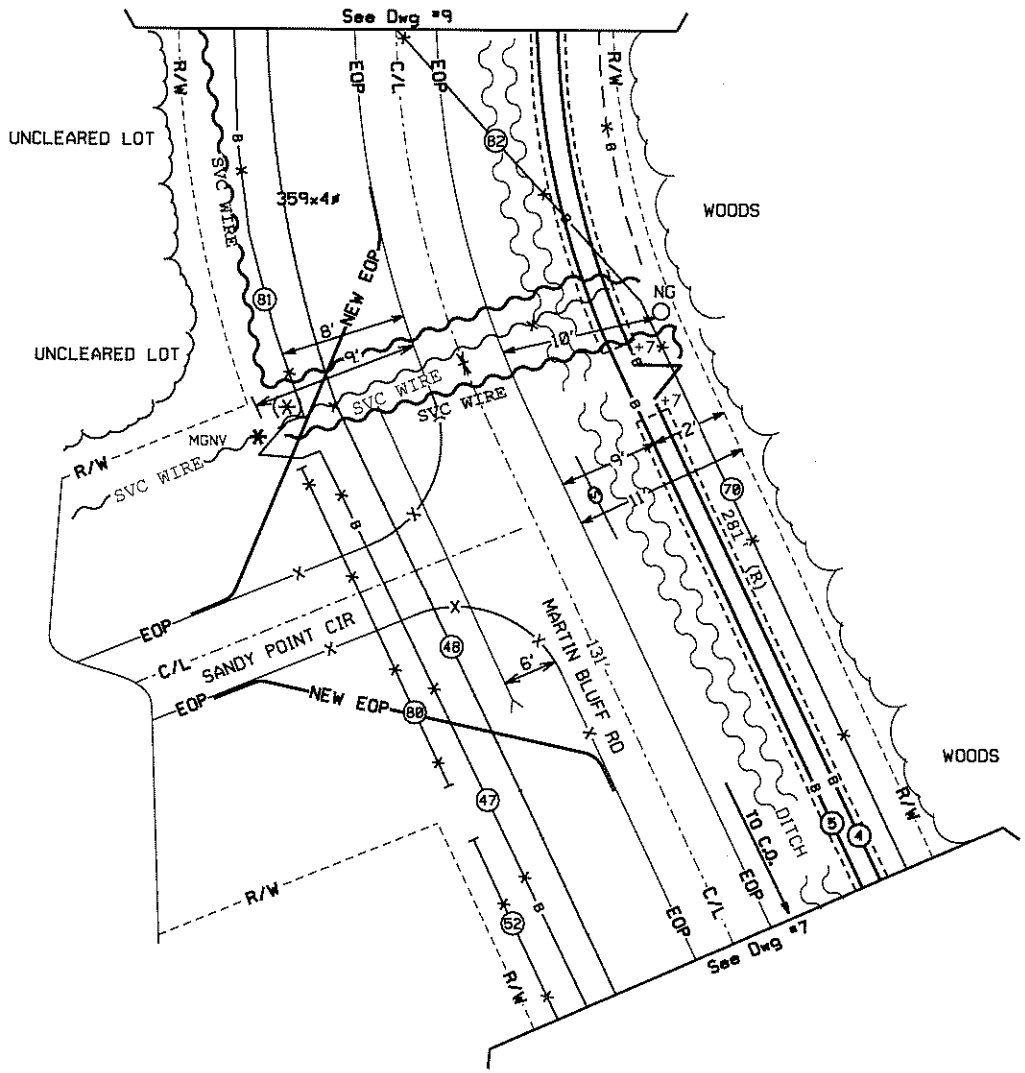
(52) CONDUIT

(70) CABLE

(80) CONDUIT

(81) CABLE

(82) CABLE



ATTSE

PROPOSED TELEPHONE FACILITIES ON RIGHT OF WAY OF JACKSON COUNTY

MARTIN BLUFF RD

Exchange:	GAUTIER 497
Designer:	SEAN MURPHY
Phone:	228-868-5021
Authorization:	04C00003N
Dwg.	8 of 10

(4) CABLE

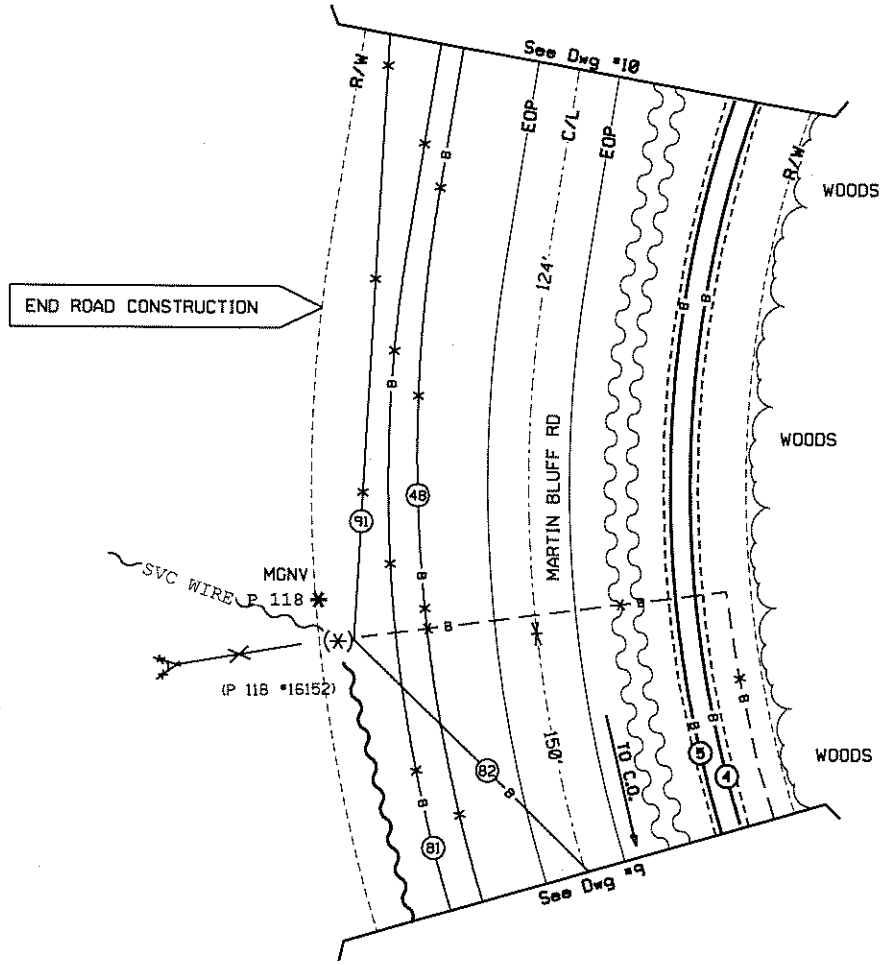
(5) CABLE

(48) CABLE

(81) CABLE

(82) CABLE

(91) CABLE



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PROPOSED TELEPHONE FACILITIES ON RIGHT OF WAY OF JACKSON COUNTY

MARTIN BLUFF RD

Exchange: GAUTIER 497

Designer: SEAN MURPHY

Phone: 228-868-5021

Authorization: 04C00003N

Dwg. 9 of 10

4 CABLE

5 CABLE

6 CABLE

10 CABLE

11 CABLE

12 CABLE

13 CABLE

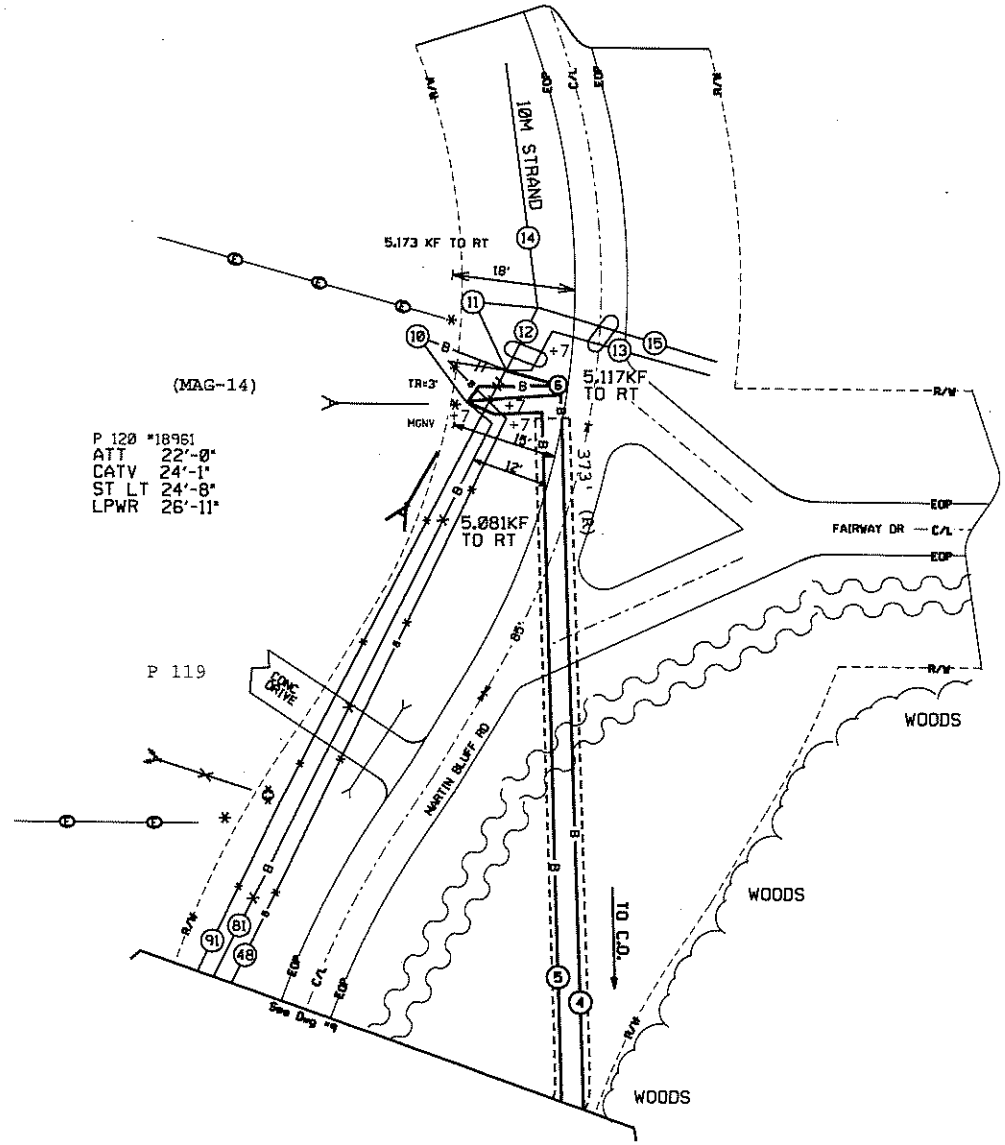
14 CABLE

15 CABLE

81 CABLE

48 CABLE

91 CABLE



ATTSE

PROPOSED TELEPHONE FACILITIES ON RIGHT OF WAY OF JACKSON COUNTY

MARTIN BLUFF RD

Exchange: GAUTIER 497

Designer: SEAN MURPHY

Phone: 228-868-5021

Authorization: 04C00003N

Dwg. 10 of 10

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi the following:

ORDER NUMBER 245-2019

WHEREAS, the City Council has authorized the City Manager to establish payment plans and fee adjustments contingent upon Council approval; and

WHEREAS, the City Council has adopted a Comprehensive Fee Schedule that establishes such fees for the equitable provision of services;

WHEREAS, based on the reasons included on the attached documentation, the Mayor and Council hereby find that, due to unforeseen events, the respective users did not receive the benefit of the relevant utility;

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi that the attached list of water and sewer adjustments dated November 2019 in the amount of $7,636.07 is hereby approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin,** seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

NOVEMBER 2019 UTILITY ADJUSTMENTS							
ACCT #	WATER	SEWER	L/C	CAPACITY	TAX	ADJ	ADJUSTMENT
005-15901-001		$75.11				$75.11	POOL FILL
011-16601-000		$51.06				$51.06	WATER LINE
015-12501-002		$58.37				$58.37	POOL FILL
020-05401-000		$170.01	$70.00			$240.01	WATER LINE
027-17001-000	$115.08	$129.87	$70.00			$314.95	LEAK AT METER
027-17801-001		$208.95	$105.00			$313.95	BUSTED PIPE
035-05901-003		$81.77	$35.00			$116.77	POOL FILL
044-08201-002		$66.04				$66.04	WATER LINE
059-04201-004		$189.07	$105.00			$294.07	BUSTED PIPE
062-00901-003	$86.19	$115.60	$70.00	$50.00	$4.90	$326.69	THEFT OF UTILITIES
062-12401-000		$61.14				$61.14	BROKEN SPIGOT
065-08501-006	$134.89	$151.24	$35.00			$321.13	THEFT OF UTILITIES
065-12401-000		$116.73				$116.73	BUSTED PIPE
077-02101-001		$75.58				$75.58	BROKEN SPIGOT
080-16601-000	$401.11	$449.72	$70.00			$920.83	THEFT OF UTILITIES
086-12101-000		$102.49				$102.49	WATER LINE
095-10601-008		$308.11				$308.11	WATER LINE
095-10701-000		$65.76				$65.76	POOL FILL
098-06301-002		$415.98	$140.00			$555.98	BUSTED PIPE
098-15401-003		$164.46				$164.46	POOL FILL
103-00201-000	$361.94	$485.41	$105.00	$200.00	$7.35	$1,159.70	THEFT OF UTILITIES
105-06511-000		$894.31	$70.00			$964.31	WATER LINE
105-13101-000		$48.57				$48.57	POOL FILL
113-33301-001		$96.10				$96.10	POOL FILL
116-36401-007		$22.02				$22.02	POOL FILL
119-40001-000		$141.25				$141.25	POOL FILL
125-09501-001		$54.94				$54.94	POOL FILL
139-11801-001		$301.37	$105.00			$406.37	POOL FILL
139-47251-005		$123.58	$70.00			$193.58	BROKEN SPIGOT
TOTAL	$1,099.21	$5,224.61	$1,050.00	$250.00	$12.25	**$7,636.07**	

COMPLETED

THESE FOLLOW POLICY/ RECOMMEND APPROVAL

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 246-2019

WHEREAS, Waggoner Engineering is designing a 2019 Water Supply Improvements Project to include a new supply well and nanofiltration water treatment plant; and

WHEREAS, the Department of Marine Resources requires the City to execute an Agent Authorization form in order to allow Waggoner Engineering to move forward with the permitting process that is necessary to complete this project;

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that Waggoner Engineering is hereby approved to act as an authorized agent on behalf of the City related to the Mississippi Department of Marine Resources permitting process for the Water Supply Improvements Project.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilwoman Martin**, seconded by **Councilman Vaughan,** and the following vote was recorded:

AYES:	**Phil Torjusen** **Mary Martin** **Cameron George** **Richard Jackson** **Casey Vaughan** **Adam Colledge**
NAYS:	**None**
ABSENT:	**Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

CITY OF GAUTIER
MEMORANDUM

To: Paula Yancey, City Manager

From: April Stennett, Grants and Projects Director

Date: November 5, 2019

Subject: Water Supply Improvements Project – Waggoner Engineering Agent Authorization for Mississippi Department of Marine Resources Permit Application

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REQUEST:
The Grants and Projects Department requests City Council approval to allow Waggoner Engineering to act as an authorized agent on behalf of the City related to the Water Supply Improvements Project.

BACKGROUND:
Waggoner Engineering is designing a 2019 Water Supply Improvements Project to include a new supply well and nanofiltration water treatment plant.

DISCUSSION:
The Mississippi Department of Marine Resources requires the City to execute an Agent Authorization form in order to allow Waggoner Engineering to move forward with the permitting process that is necessary to complete this project.

RECOMMENDATION:
The Grants and Projects Department recommends that City Council authorize Waggoner Engineering to act as an authorized agent on behalf of the City related to the Mississippi Department of Marine Resources permitting process for the Water Supply Improvements Project.

The City Council may:

1. Approve Waggoner Engineering to act as an authorized agent on behalf of the City related to the Mississippi Department of Marine Resources permitting process for the Water Supply Improvements Project as presented; or
2. Not approve Waggoner Engineering to act as an authorized agent on behalf of the City related to the Mississippi Department of Marine Resources permitting process for the Water Supply Improvements Project as presented.

ATTACHMENT(S):
Agent Authorization Form

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

Agent Authorization

I authorize the person(s) and/or company listed below to act as my agent regarding the proposed project as described in the Joint Application and Notification at the location listed below:

Waggoner Engineering Inc.
(name of agent)

City of Gautier
(location of project)

143-A LeFleurs Square
(address)

Jackson, MS 39211
(city, state, zip code)

Att: Jennifer Jorge (601) 355-9526
(agent phone number)

_____
(print applicant name)

_____ _____
(applicant signature) (date)

Do you want the permit mailed to the agent?_____Yes _____No

Councilman Colledge made the motion to approve minutes from Recessed Council Meeting held October 15, 2019 and Recessed Council Meeting held October 21, 2019, with the correction to Recessed Council Meeting held October 21, 2019 that reflects Councilman Colledge made the motion to re-enter open session. Councilman George seconded the motion. The vote was carried unanimously.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 247-2019

WHEREAS, Miss. Code Ann. 21-15-33 requires that the minutes be adopted and approved by a majority of the members of the governing body at the next regular meeting or within thirty (30) days of the meeting they represent, whichever occurs first. Upon such approval, the minutes are valid from and after the date of the meeting; and

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the minutes from Recessed Council Meeting held October 15, 2019 and Recessed Council Meeting held October 21, 2019 are hereby approved with the correction to Recessed Council Meeting held October 21, 2019 reflecting that Councilman Colledge made the motion to re-enter open session.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **Councilman Colledge,** seconded by **Councilman George,** and the following vote was recorded:

AYES: **Phil Torjusen**
Mary Martin
Cameron George
Richard Jackson
Casey Vaughan
Adam Colledge

NAYS: **None**

ABSENT: **Rusty Anderson**

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 5, 2019.

Councilman Vaughan made the motion to recess until November 19, 2019 at 6:30 pm. **Councilman Jackson** seconded the motion. The vote was carried unanimously. Absent was Councilman Anderson.

APPROVED BY:

_____

MAYOR

ATTEST:

_____

CITY CLERK

Submitted for approval of the Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of November 19, 2019.

CITY OF GAUTIER, MISSISSIPPI
STUDY AGENDA
November 19, 2019

ITEM DESCRIPTION:

Citizen Comments

City Council Comments

City Manager Comments

City Clerk Comments

City Attorney Comments

NOTES: