

City of Fayetteville Staff Review Form

City Council Agenda Items  
and  
Contracts, Leases or Agreements

16-Jul-13

City Council Meeting Date  
Agenda Items Only

David Jurgens  
Submitted By

Water and Sewer  
Division

Utilities  
Department

Action Required:

Approval of a construction contract with H & H Directional Boring, Inc. for \$217,000 for bores across the White River to repair water line damage cause by flooding in the spring of 2011, approval of a \$20,000 contingency, and approval of a budget adjustment, Bid 13-35.

\$ 237,000  
Cost of this request  
5400-5600-5315.00  
Account Number  
11020.5400  
Project Number

\$ 452,410  
Category / Project Budget  
\$ 37,541  
Funds Used to Date  
\$ 414,870  
Remaining Balance

FEMA 2011 Contracts  
Program Category / Project Name  
2011 FEMA  
Program / Project Category Name  
Disaster/Replacement  
Fund Name

Budgeted Item

Budget Adjustment Attached

*Done for D. Jurgens*  
Department Director  
*Contractor needs to sign where indicated*  
*K. [Signature]*  
City Attorney  
06/27/13  
Date  
6-27-13  
Date

Previous Ordinance or Resolution # \_\_\_\_\_  
Original Contract Date: \_\_\_\_\_  
Original Contract Number: \_\_\_\_\_

*Maria Hernandez*  
Finance and Internal Services Director  
6/28/13  
Date

Received in City Clerk's Office 27-13 A08:29 RCVD  
*[Signature]*

*Jim Mann*  
Chief of Staff  
7/1/13  
Date

Received in Mayor's Office  
ENTERED 6/29/13  
*[Signature]*

*Donald Jordan*  
Mayor  
7/1/13  
Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan  
 Don Marr, Chief of Staff

From: David Jurgens, Utilities Director  
 Fayetteville Water and Sewer Committee

Date: June 27, 2013

Subject: Approval of construction contract with H & H Directional Boring, Inc. for bores across the White River to repair water line damage from flooding in the spring of 2011

**RECOMMENDATION**

City Administration recommends approval of a construction contract with H & H Directional Boring, Inc. for \$217,000 for bores across the White River to repair water line damage cause by flooding in the spring of 2011, approval of a \$20,000 contingency, and approval of a budget adjustment, Bid 13-35.

**BACKGROUND**

In the spring of 2011, the City experienced a period of extensive rainfall and suffered severe flooding. The incident was declared a national disaster by the President. Since the declaration, the City has been working with FEMA to obtain partial reimbursement of the costs incurred to respond to the event and to perform permanent repairs to infrastructure damaged by the event. FEMA will reimburse the City 75% of eligible costs. The State of Arkansas will reimburse the City 12.5% of eligible costs. The City's portion is also 12.5%, plus all costs for improvements.

The City's water and sewer systems experienced a wide variety of damage from the flooding, including some locations where the water or sewer lines completely washed out. Almost of these failures have been repaired using in-house crews. In order to meet the Federal Emergency Management Agency's (FEMA) requirements for reimbursement, eligible repairs must be completed within a certain timeframe.

**DISCUSSION**

This contract is to install two 24 inch diameter encasements, 200' long each, across the White River south of Greenland, where the City has two existing water lines that were damaged or destroyed in the spring, 2011 flooding. These bores will install encasements under the White River at the two locations. City Water Team crews will install the 12" water lines at each location to connect the water line in the encasement pipe to the existing pipelines north and south of the River. These water lines provide water to our southernmost customers, including (by a master meter) the City of West Fork and the Mt. Olive Rural Water Association. One crossing is replacing the existing 12" water line crossing; the other is replacing an old 4" crossing with the new 12" water line. This will reinforce our distribution system and help us eventually provide a better level and more reliable service to these customers. The City received three bids June 25<sup>th</sup>.

Bidder	Bid
H & H Directional Boring	\$ 217,000
Goodwin & Goodwin	\$ 335,000
B.C. Main Construction	\$ 424,648
Engineer's Estimate	\$ 205,000

H & H Directional Boring, Inc. has performed many similar projects for the City; staff recommends awarding the contract.

**BUDGET IMPACT**

The budget adjustment transfers \$237,000 from the Emergency and Disaster Replacement Fund to the Water/Sewer fund. Costs above the FEMA reimbursement will be covered by project 04020, Water Line Projects as Needed.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION TO APPROVE A CONSTRUCTION CONTRACT WITH H&H DIRECTIONAL BORING, INC. IN THE AMOUNT OF \$217,000.00 FOR BORES ACROSS THE WHITE RIVER TO REPAIR WATER MAIN DAMAGE, PLUS A \$20,000.00 CONTINGENCY AND THE ATTACHED BUDGET ADJUSTMENT**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the attached construction contract with H&H Directional Boring, Inc. in the amount of \$217,000.00 for bores across the White River to repair water main damage, authorizes Mayor Jordan to sign the contract, approves a \$20,000.00 contingency and approves the attached budget adjustment.

**PASSED and APPROVED** this 16th day of July 2013.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**

**City of Fayetteville, Arkansas  
Budget Adjustment Form**

V12.0724 A. 2  
H & H Directional Boring, Inc.  
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<b>Budget Year</b>  2013	Division: Water & Sewer Maintenance Department: Utilities Director	<b>Request Date</b>  6/27/2013	<b>Adjustment Number</b>
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**BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION**

A BA is needed in the FEMA Flood Damage project to cover the expenditures for the contract with H & H Directional Boring, Inc. for the W & S Creek Crossing bores. This contract is to install two 24 inch diameter encasements, 200' long each, across the White River south of Greenland, where the City has two existing water lines that were damaged or destroyed in the spring, 2011 flooding. These bores will install encasements under the White River at the two locations. One crossing is replacing the existing 12" water line crossing; the other is replacing an old 4" crossing with the new 12" water line.

Division Head Date _____	Prepared By: Cheryl Partain <i>CP</i> Reference: _____	
Budget Director Date _____	Budget & Research Use Only	
Department Director <i>Sharon Jones for David Jurgens</i> Date _____	Type:    A        B        C        D        E        P	
Finance Director Date <i>6/28/13</i>	General Ledger Date _____	
Chief of Staff Date <i>7/1/13</i>	Posted to General Ledger                      Initial                      Date	
Mayor Date <i>7/1/13</i>	Checked / Verified                                      Initial                      Date	

**TOTAL BUDGET ADJUSTMENT**

Account Name	Account Number	Increase / (Decrease)		Project.Sub Number
		Expense	Revenue	
Contract services	5400.5600.5315.00	237,000	-	11020 . 5400
Water line improvements	5400.5600.5808.00	(237,000)		04020 . 1



**Bid 13-35, Construction - FEMA, Steel Pipe Encasements'**

**BID: 13-35**  
**DATE: 06/25/13**  
**2:00 PM**  
**CITY OF FAYETTEVILLE**

Item #	Description	Estimated Quantity	Unit	B.C. Main Construction, Inc.		Goodwin & Goodwin, Inc.		H & H Directional Boring, Inc.	
				UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	Mobilization	1	LS	\$7,650.00	\$7,650.00	\$35,000.00	\$35,000.00	\$2,000.00	\$2,000.00
2	Trench & Safety Systems	1	LS	\$6,000.00	\$6,000.00	\$25,000.00	\$25,000.00	\$14,000.00	\$14,000.00
3	Erosion Control	1	LS	\$6,000.00	\$6,000.00	\$15,000.00	\$15,000.00	\$1,000.00	\$1,000.00
4	Location 42, 24-inch steel encasement, jack & bore	200	LF	\$1,012.495	\$202,499.00	\$650.00	\$130,000.00	\$500.00	\$100,000.00
5	Location 43, 24-inch steel encasement, jack & bore	200	LF	\$1,012.495	\$202,499.00	\$650.00	\$130,000.00	\$500.00	\$100,000.00
<b>TOTAL BID BASED ON ESTIMATES=</b>					<b>\$424,648.00</b>		<b>\$335,000.00</b>		<b>\$217,000.00</b>

\*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED: P. Vice  
P. VICE, PURCHASING MGR

Julia Paladino  
WITNESS

06/25/13  
DATE

**City Of Fayetteville - Purchase Order (PO) Request**  
 (Not a Purchase Order)  
 All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)  
 All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.: \_\_\_\_\_ Date: **6/27/2013**  
 P.O Number: \_\_\_\_\_ Expected Delivery Date: \_\_\_\_\_  
 Vendor Name: **H & H Directional Boring, Inc.**  
 Vendor Number: **13050**  
 Address: \_\_\_\_\_  
 City: **Fayetteville** State: **AR**  
 Attn: **Cheryl Haney 1609 Mally Wagnon Rd**  
 Requester: **Cheryl Partain** (Signature) Fob Point: \_\_\_\_\_  
 Construction Site, Fayetteville  
 Zip Code: **72701** Ship to code: \_\_\_\_\_  
 Requester's Employee #: **2548**

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Inventory #	Fixed Asset #
1	White River Creek Crossing Bores	1	EA	217,000.00	\$217,000.00	5400.5600.5315.00	11020.5400	
2					\$0.00			
3					\$0.00			
4					\$0.00			
5					\$0.00			
6					\$0.00			
7					\$0.00			
8					\$0.00			
9					\$0.00			
10					\$0.00			
*	Shipping/Handling		EA		\$0.00			

Special Instructions:  
 Bid#13-35  
 Subtotal: **\$217,000.00**  
 Tax: \_\_\_\_\_  
 Total: **\$217,000.00**

Approvals:  
 Mayor: \_\_\_\_\_ Department Director: *[Signature]*  
 Finance & Internal Services Director: \_\_\_\_\_ Budget Manager: \_\_\_\_\_  
 Dispatch Manager: \_\_\_\_\_ Utilities Manager: \_\_\_\_\_  
 Purchasing Manager: \_\_\_\_\_  
 IT Manager: \_\_\_\_\_  
 Other: \_\_\_\_\_

# PROJECT MANUAL

## FEMA PROJECTS STEEL PIPE ENCASEMENTS



FAYETTEVILLE, ARKANSAS

CITY PROJECT NUMBER 11020



JUNE, 2013





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**END OF SECTION 0010**

**SECTION 0020**

**CITY OF FAYETTEVILLE, AR**

**INVITATION TO BID**

**BID 13-35, CONSTRUCTION OF FEMA PROJECTS – STEEL PIPE ENCASEMENTS**

The City of Fayetteville is accepting bids for the installation of approximately 400 feet 24-inch steel encasement by jack and bore at two locations. Any questions concerning the bidding process should be addressed to Andrea Foren, City of Fayetteville Purchasing Agent, at [aforen@ci.fayetteville.ar.us](mailto:aforen@ci.fayetteville.ar.us) or by calling (479) 575-8220.

Bids shall be submitted in a sealed envelope or package labeled "Bid 13-35, CONSTRUCTION OF FEMA PROJECTS – STEEL PIPE ENCASEMENTS." All bids shall be received before **2:00 PM, local time on Tuesday, June 25, 2013** to the City of Fayetteville, Purchasing Division – Room 306, 113 W Mountain, Fayetteville, Arkansas 72701.

Bidding documents and plans must be obtained from by contacting the City Purchasing Division. Documents are available via e-mail. Plans can also be reviewed at the Fayetteville Purchasing Division, as listed below.

City of Fayetteville, Arkansas  
Purchasing Division – Attention: Andrea Foren  
113 W. Mountain, Suite 306  
Fayetteville, AR 72701  
Phone: 479.575.8220  
E-Mail: [aforen@ci.fayetteville.ar.us](mailto:aforen@ci.fayetteville.ar.us)

All bidders need to register as a plan holder with Andrea Foren via e-mail or phone. Failure to register as a plan holder can result in bid rejection.

For information concerning the proposed work, contact Shannon Jones, P. E. at [shjones@ci.fayetteville.ar.us](mailto:shjones@ci.fayetteville.ar.us) or by calling (479) 444-3452.

Each bid shall be accompanied by a cashier's check or corporate bid bond, in an amount not less than five (5) percent of the amount bid. A one hundred percent (100%) performance and payment bond, file marked by the Washington County Circuit Clerk's Office, is required with a contract awarded amount of \$20,000.00 or more. A State of Arkansas Contractor's License is required for any bid exceeding \$20,000.00.

"Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all *qualified* small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women business enterprises."

This project is subject to federal Davis-Bacon Act prevailing wage rates. Copies of certified payrolls shall be submitted with each pay request.

The City of Fayetteville reserves the right to waive irregularities, reject bids, and postpone the award of any Contract for a period of time which shall not exceed beyond sixty days from the bid opening date.

CITY OF FAYETTEVILLE, ARKANSAS

By: Andrea Foren, CPPB,  
City of Fayetteville, Purchasing Agent  
Ad Dates: 6/6/2013 and 6/13/2013

**END OF SECTION 0020**

## SECTION 0100

### INFORMATION FOR BIDDERS

#### 1. DEFINED TERMS

- 1.1 Terms used in these Information for Bidders which are defined in the Standard General Conditions of the Construction Contract have the meanings assigned to them in the General Conditions. The term "Bidder" means one who submits a Bid directly to City of Fayetteville, as distinct from Sub-Bidder, who submits a Bid to a Bidder. The term "Successful Bidder" means the lowest, qualified, responsible and responsive Bidder to whom City of Fayetteville (on the basis of City of Fayetteville's evaluation as hereinafter provided) makes an award. The term "Bidding Documents" included the Advertisement or Invitation to Bid, Information for Bidders, the Bid Form, and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

#### 2. COPIES OF BIDDING DOCUMENTS

- 2.1 Complete sets of Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement or Invitation to Bid may be obtained from the Engineer. Deposit for Bidding Documents are non refundable.
- 2.2 Complete sets of Bidding Documents shall be used in preparing Bids; the City of Fayetteville does not assume any responsibility for errors or misinterpretations resulting from the use of the incomplete sets of Bidding Documents.
- 2.3 The City of Fayetteville in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

#### 3. QUALIFICATIONS OF BIDDERS

- 3.1 Each Bid must contain evidence of Bidder's qualifications to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the Contract.
- 3.2 Qualifications shall be submitted in a separate sealed envelope at the date and time listed on the Bid Proposal. Refer to Section 00420 – Statement of Bidder's Qualifications.

#### 4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- 4.1 It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c)

consider Federal, State and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work, (d) study and carefully correlate Bidder's observations with the Contract Documents, and (e) notify Engineer of all conflicts, errors or discrepancies in the Contract Documents.

- 4.2 In the preparation of Contract Documents, the Engineer has relied on the report of soil and subsurface investigation listed in the Supplemental Information For Bidders. A copy of this report is appended (If Provided). The report is not a part of the Contract Documents and is provided for informational purposes only. Neither the City of Fayetteville nor the engineer guarantees the accuracy of the report. The Bidder shall make further investigations and tests as the Bidder deems necessary in order to provide the Work at the Contract Price, within Contract Time, and in accordance with the terms and conditions of the Contract Documents.
- 4.3 Information and data reflected in the Contract Documents with respect to Underground Facilities at or contiguous to the site is based upon information and data furnished to the City of Fayetteville by owners of such Underground Facilities or others, and City of Fayetteville does not assume responsibility for the accuracy or completeness thereof, unless it is expressly provided otherwise in the Supplementary Conditions.
- 4.4 Provisions concerning responsibilities for the adequacy of data furnished to the prospective Bidders on subsurface conditions, Underground Facilities and other physical conditions, and possible changes in the Contract Documents due to differing conditions appear in Paragraph 4.2 and 4.3 of the General Conditions.
- 4.5 Before submitting a Bid, each Bidder will be responsible to make or obtain such explorations, tests and data concerning physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
- 4.6 On request in advance, City of Fayetteville will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations. A representative of the City of Fayetteville shall be present during all tests.
- 4.7 The lands upon which the Work is to be performed, rights of way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by City of Fayetteville.

## **5. INTERPRETATIONS AND ADDENDA**

- 5.1 All questions about the meaning or intent of the Contract Documents are to be directed in writing to Engineer. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than ten (10) days prior to the data for opening of Bids may not be answered. Only questions answered by formal, written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 5.2 Prior to the deadline for receiving Bids, Addenda may also be issued to modify the Bidding Documents as deemed advisable by City of Fayetteville or Engineer.

## **6. BID SECURITY**

- 6.1 Each Bid must be accompanied by Bid security made payable to City of Fayetteville in an amount of five (5) percent of the Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond (on form attached, if a form is prescribed), issued by a surety.
- 6.2 The Bid security of the Successful Bidder will be retained until Bidder has executed the Agreement and furnished the required Contract security, whereupon the Bid security will be returned. If the successful Bidder fails to execute and deliver the Agreement and furnish the required Contract security within ten (10) days after the Notice of Award, City of Fayetteville may annul the Notice of Award, and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom City of Fayetteville believes to have a reasonable chance of receiving the award may be retained by City of Fayetteville until the earlier of the seventh (7th) day after the Effective Date of the Agreement or the sixty-first (61st) day after the Bid opening, whereupon Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven (7) days after the Bid opening.

## **7. CONTRACT TIME**

- 7.1 The number of days within which the Work is to be substantially completed and also completed and ready for final payment (the Contract Time) are set forth in the Agreement and these Contract Documents.

**8. LIQUIDATED DAMAGES**

8.1 Provisions for liquidated damages, if any, are set forth in the Agreement.

**9. SUBSTITUTE OR "OR EQUAL" ITEMS**

9.1 The Bid shall be based on the specified products or their approved equal described on the Drawings or written in the Specifications. Any product may be used which is specified by the referenced standards (such as ASTM) and which meets those standards. For products which are specified by naming one or more manufacturers preceded by "equal to" or followed by "or equal," a written request for substitution shall be submitted for approval by the Engineer. Such written requests will be considered up to ten (10) days prior to the scheduled Bid opening.

**10. SUBCONTRACTORS, SUPPLIERS AND OTHERS**

10.1 Subcontractors and suppliers shall be listed, if required, on the Bid Form.

**11. BID FORM**

11.1 The Bid Form is included with the Bidding Documents; additional copies may be obtained from Engineer.

11.2 All blanks on the Bid Form must be completed in ink or by typewriter.

11.3 Unit prices and lump sum amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern and the unit price will govern over the extended amount.

11.4 Bids by corporations must be executed in the corporate name by the president or a vice president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistance secretary. The corporate address and state of incorporation must be shown below the signature.

11.5 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

11.6 All names must be typed or printed below the signature.

11.7 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).

11.8 The address, telephone number, and fax number if applicable for communications regarding the Bid must be shown.



## 12. SUBMISSION OF BIDS

- 12.1 Bids shall be submitted at the time and place indicated in the Advertisement or Invitation to Bid. **Bids shall be bound in the original project manual** and shall be enclosed in an opaque sealed envelope, marked with the Project Title (and, if applicable, the designated position of the Project for which the Bid is submitted) and name, address, and contractor's license number of the Bidder, and accompanied by the Bid security and other required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.

## 13. MODIFICATION AND WITHDRAWAL OF BIDS

- 13.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.
- 13.2 If, within twenty-four (24) hours after Bids are opened, any Bidder files a duly-signed, written notice with the City of Fayetteville and promptly thereafter demonstrates to the reasonable satisfaction of City of Fayetteville that there was a material and substantial mistake in the preparation of its Bids, that Bidder may withdraw its Bid and the Bid security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

## 14. OPENING OF BIDS

- 14.1 Bids will be opened and (unless obviously non-responsible) read aloud publicly. An abstract of the amounts of the base Bids and major alternates (if any) will be made available to the Bidders after the opening of Bids. Bids will be returned without being read aloud if all applicable portions of the Contract Documents are not met by the Bidder.

## 15. BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 15.1 All Bids will remain subject to acceptance for sixty (60) days after the day of the Bid opening, but City of Fayetteville may, in its sole discretion, release any Bid and return the Bid security prior to that date.

## 16. AWARD OF CONTRACT

- 16.1 City of Fayetteville reserves the right to reject any and all Bids, to waive any and all informalities and to negotiate Contract terms with the Successful Bidder, and the right to disregard all nonconforming, nonresponsive, unbalanced or conditional Bids. Also, City of Fayetteville reserves the right to reject the Bid of any Bidder if City of Fayetteville believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by City of Fayetteville. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- 16.2 In evaluating Bids, City of Fayetteville will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award. City of Fayetteville may accept any such alternatives in any order or combination, whether in the order in which they are listed in the Bid Form or not.
- 16.3 City of Fayetteville may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. City of Fayetteville also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- 16.4 City of Fayetteville may conduct such investigations as City of Fayetteville deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to City of Fayetteville's satisfaction within the prescribed time.
- 16.5 If the Contract is to be awarded, it will be awarded to the lowest Bidder whose evaluation by City of Fayetteville indicates to City of Fayetteville that the award will be in the best interest of the Project.
- 16.6 If the Contract is to be awarded, City of Fayetteville will give the successful Bidder a Notice of Award within sixty (60) days after the day of the Bid opening.

**17. CONTRACT SECURITY**

17.1 The General Conditions and the Supplementary Conditions set forth City of Fayetteville's requirements as to Performance and Payment Bond and a Warranty Bond. When the successful Bidder delivers the executed Agreement to City of Fayetteville, it must be accompanied by the required Performance and Payment Bond, a copy of which has been filed with the Washington County Circuit Clerk. At the time of Final Acceptance, the Contractor shall provide the City of Fayetteville the Warranty Bond.

**18. SIGNING OF AGREEMENT**

18.1 When City of Fayetteville gives a Notice of Award to the successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement and all other written Contract Documents attached. Within ten (10) days thereafter Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to City of Fayetteville with the required Bonds. Within ten (10) days thereafter, City of Fayetteville shall deliver one fully-signed counterpart to Contractor. Each counterpart is to be accompanied by a complete set of the Drawings with appropriate identification.

**19. PRE-BID CONFERENCE**

19.1 As noted in the Advertisement for Bids.

**20. RETAINAGE**

20.1 Provisions concerning retainage are set forth in the General Conditions.

**21. SPECIAL LEGAL REQUIREMENTS**

21.1 Attention of Bidders is called to Act 150, Acts of Arkansas 1965, concerning the licensing of contractors to do business in Arkansas.

21.2 It is conclusively presumed that Bidders have familiarized themselves with Arkansas laws which may be applied to a Contract for the Work proposed herein as the aforementioned Acts are not exclusive. It is further conclusively presumed that Bidders have familiarized themselves with Federal and local laws, ordinances and regulations pertaining to the Work proposed herein.

21.3 A State of Arkansas Contractor's License is not required to bid on this project; however, no contractor or bidder shall submit a bid prior to submitting an application for licensure with the Arkansas Contractor Licensing Board, and no construction contract shall be executed until the successful bidder has obtained an appropriate license issued by the State of Arkansas Contractor's Licensing Board.

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**END OF SECTION 0100**

## SECTION 0212

### SUPPLEMENTAL INFORMATION FOR BIDDERS

1. BIDDER'S FORMS

**The BIDDER'S attention is called to the following additional forms which shall be filled out and submitted with the BID:**

- Section 0660 – Contractor's Act of Assurance Form

2. GENERAL CONDITIONS

The BIDDER'S attention is called to all Conditions relating to the Work of this Contract in Section 0700 - General Conditions.

3. SPECIFICATIONS

The BIDDER should examine all documents thoroughly. Particular attention is called to Section 0900 – Description of Unit Price Schedule Items.

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**END OF SECTION 00212**

**SECTION 0310**

**BID PROPOSAL**

**LOCATION:** CITY OF FAYETTEVILLE, ROOM 306  
113 W. MOUNTAIN  
FAYETTEVILLE, AR 72701

**DATE:** June 25, 2013 at 2:00 p.m. LOCAL TIME

Proposal of: H & H Directional Boring, Inc.

Address: 1609 Mally Wagnon Road  
Fayetteville, AR 72701

**Bid For:** CONSTRUCTION OF FEMA PROJECTS – STEEL PIPE ENCASEMENTS

Bid Submitted to:

**The City of Fayetteville**  
**Andrea Foren, Purchasing Agent – Room 306**  
**113 W. Mountain**  
**Fayetteville, AR 72701**

**BIDDER** will complete the **Work** for the unit prices as listed in the **Bid Form**.

Total Base Bid as outlined on **Bid Form**:

<u>Two hundred seventeen thousand</u>	<u>\$ 217,000.00</u>
<b>Amount in Words</b>	<b>Figures</b>

The undersigned **BIDDER** proposes and agrees, if this Bid is accepted, to enter into an **Agreement** with **CITY OF FAYETTEVILLE** in the form included in these **Contract Documents** to complete all **Work** as specified or indicated in the **Contract Documents** for the **Contract Price** and within the **Contract Time** indicated in these **Contract Documents**. **BIDDER** accepts the provisions of the **Agreement** as to **Liquidated Damages** in the event of failure to complete the **Work** in the **Contract Time** specified.

**BIDDER** accepts all of the terms and conditions of the **Information for Bidders**, including without limitation those dealing with the disposition of **BID SECURITY**. This **Bid** will remain open for sixty (60) days after the day of **Bid Opening**. **BIDDER** will sign the **Agreement** required by these **Contract Documents** within ten (10) days after the date of **CITY OF FAYETTEVILLE'S Notice of Award**.

In submission of this **BID**, **BIDDER** represents, as more fully set forth in the **Agreement**, that **BIDDER HAS EXAMINED ALL CONTRACT DOCUMENTS** (including but not limited to **Invitation to Bid, Information for Bidders, and Supplemental Information for Bidders**) and the following **ADDENDA**: None

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Failure to list all necessary Agenda issued by the **CITY OF FAYETTEVILLE** or the **ENGINEER** could mean the **BID** submitted by the **BIDDER** may be deemed unresponsive and not read publicly.

In submission of the **BID**, **BIDDER** represents, that they have examined the site and locality where the **Work** is to be performed, the legal requirements (Federal, State and Local Laws, Ordinances, Rules and Regulations) and the conditions affecting cost, progress or performance of the **Work** and has made such independent investigations as **BIDDER** deems necessary.

In submission of the **BID**, **BIDDER** represents, that this **BID** is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation. The **BIDDER** represents that they have not directly or indirectly induced or solicited any other **BIDDER** to submit a false or sham **BID**. The **BIDDER** represents that they have not solicited or induced any person, firm or corporation to refrain from bidding and have not sought by collusion to obtain for themselves any advantage over any other **BIDDER** or over the **CITY OF FAYETTEVILLE**.

All terms used in the **BID** are defined and have the meanings assigned to them in the **General Conditions** of these **Contract Documents**.

Attached to this **BID FORM** is the required Bid Security in the form of a Bid Bond or Cashier's Check in the amount of five (5) percent of the Total Bid Amount.



**BIDDER** submitting this **BID** is:

A Corporation, incorporated in the State of Arkansas

A Partnership, consisting of the following partners, whose full names are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

An Individual whose full name is: \_\_\_\_\_

H & H Directional Boring, Inc.

General Contractor (Firm Name)

Chad Haney

Signed By

President

Title

June 25, 2003

Date

1609 Mally Wagon Road

Address

Fayetteville, AR 72701

479 443 9107 office 479 443 5555 fax

Telephone Number & Fax

0091820414

Contractor's License Number

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**SECTION 0310 - BID PROPOSAL**

<u>Item</u>		<u>Approx.</u>	<u>Unit Price In</u>	
<u>No.</u>	<u>Item Description</u>	<u>Qty.</u>	<u>Unit</u>	<u>Figures</u>
				<u>Total</u>
1	Mobilization	1	LS	
	<u>Two thousand</u> dollars			<u>\$ 2,000.00</u> <u>\$ 2,000.00</u>
2	Trench & Safety Systems	1	LS	
	<u>Fourteen thousand</u> dollars			<u>\$ 14,000.00</u> <u>\$ 14,000.00</u>
3	Erosion Control	1	LS	
	<u>One thousand</u> dollars			<u>\$ 1,000.00</u> <u>\$ 1,000.00</u>
4	Location 42, 24-inch steel encasement, jack & bore	200	LF	
	<u>One hundred thousand</u> dollars			<u>\$ 500,000.00</u> <u>\$ 100,000.00</u>
5	Location 43, 24-inch steel encasement, jack & bore	200	LF	
	<u>One hundred thousand</u> dollars			<u>\$ 500,000.00</u> <u>\$ 100,000.00</u>
<b>Total Bid</b>				<u>\$ 217,000.00</u>

END OF SECTION 0310



**SECTION 0311**

**BIDDER'S STATEMENT OF SUBCONTRACTORS**

The undersigned **BIDDER** proposes and agrees, if this **BID** is accepted, to use the following proposed subcontractors on this **Work**:

<b>NAME</b>	<b>BUSINESS ADDRESS</b>	<b>WORK TO BE PERFORMED</b>
1. <u>Self perform - No subcontractors to be used</u>		
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____

The undersigned **BIDDER** agrees that seventy percent (70%) of the **Work** will be required to be performed with his own forces unless a variance is requested and granted from the **CITY OF FAYETTEVILLE**.

Date: 6-25-13

Signed: Chad Manning

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**END OF SECTION 0311**

**SECTION 0312**

**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,  
\_\_\_\_\_ as Principal, and  
\_\_\_\_\_ as Surety, are  
hereby held and firmly bound unto the City of Fayetteville in the penal sum of  
\_\_\_\_\_ for payment of which, well and truly  
to be made, we hereby jointly and severally bind ourselves, successors and assigns.

The Condition of the above obligation is such that whereas the Principal has submitted to the  
City of Fayetteville a certain BID, attached hereto and hereby made a part hereof to enter into a  
contract in writing, for Project \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOW, THEREFORE,

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

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

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

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

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

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

**END OF SECTION 0312**



**NOTICE TO CUSTOMERS**  
THE PURCHASE OF AN INDEMNITY BOND WILL BE REQUIRED BEFORE ANY OFFICIAL CHECK OF THIS BANK WILL BE REPLACED OR REFUNDED IN THE EVENT IT IS LOST, MISPLACED OR STOLEN. THE BANK IS NOT OBLIGATED TO TAKE ANY ACTION ON THE ABOVE UNTIL THE 90TH DAY AFTER DATE OF ISSUANCE.

**ARVEST**  
BANK  
Member FDIC  
P.O. Box 799  
Lowell, AR 72745

3226395

81-87/829  
11533621

REMITTER H&H DIRECTIONAL BORING INC  
Bf 309

DATE June 25, 2013

PAY TO THE ORDER OF CITY OF FAYETTEVILLE

\$ 10,850.00

THIS DOCUMENT HAS A MICRO-PRINT SIGNATURE LINE, WATERMARK, AND A THERMOCHROMIC ICON; ABSENCE OF THESE FEATURES WILL INDICATE A COPY.

PAY EXACTLY **10,850** DOLLARS **00** CENTS

**CASHIER'S CHECK**

*Lindsay Willhite*  
*Carol L. H.*

MP

⑈ 3226395 ⑆ ⑆ 082900872 ⑆ ⑆ 11533621 ⑆ ⑆

**SECTION 0420**

**STATEMENT OF BIDDER'S QUALIFICATIONS**

All requests must be addressed in writing and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The BIDDER may submit any additional information he/she desires.

**A. REQUESTS REGARDING BIDDER**

1. Name of Bidder.
2. Permanent main office address.
3. When organized.
4. If a corporation, where incorporated.
5. How many years have you been engaged in the contracting business under your present firm or trade name?
6. Have you ever failed to complete any work awarded to you. (If so, where and why?)
7. Have you ever defaulted on a contract ? (If so, where and why?)
8. List the last five (5) projects of the similar size and magnitude of this Project which were completed by your company, stating the cost for each and the month and year completed. Include the entity for which the work was performed with names, titles, and phone numbers.
9. Give bonding agent and limit.
10. If subcontractor is to be used for this contract, state the percentage of work anticipated to be completed by subcontractor. If subcontractor is to perform work, a separate Statement of Bidder's Qualifications regarding subcontractor and the method used by the subcontractor. Refer to Section 0100 & Section 0311.

Submit this Statement of Bidders Qualifications to the Engineer. Qualifications shall be submitted in a separate sealed envelope at the date and time listed on the Bid Proposal.

~~H & H Directional Boring, Inc.~~

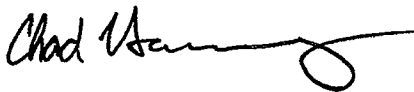
(Name of Bidder)

By: Chad Wanning

Title: President

STATEMENT OF BIDDER'S QUALIFICATIONS – H & H Directional Boring, Inc.

1. H & H Directional Boring, Inc.
2. 1609 Mally Wagnon Road, Fayetteville, AR 72701
3. November 2000
4. Arkansas
5. 13 years
6. No
7. No
8. A) Hwy 265 Water & Sewer Relocate-Fayetteville \$178,500 Completed January 2013  
Seven Valleys  
PO Box 88  
Cassville, MO  
417 847 2287 Office
- B) Hwy 265 Water & Sewer Relocate-Springdale \$284,000 Completed August 2012  
Seven Valleys  
PO Box 88  
Cassville, MO  
417 847 2287 Office
- C) 2012 Water System Expansion Phase III - \$77,700 Completed May 2013  
Fochtman Enterprises  
PO Drawer 1168  
Fayetteville, AR  
479 521 6082 Office
- D) Oak Grove Road Sewer Improvements – Springdale - \$196,630 Completed May 2012  
Seven Valleys  
PO Box 88  
Cassville, MO  
417 847 2287 Office
- E) Springdale Water Rehab Phase II - \$106,000 – Completed January 2013  
Seven Valleys  
PO Box 88  
Cassville, MO  
417 847 2287 Office
9. Employers Mutual Company Bond limit - \$600,000.00
10. No subcontractor will be used for this contract.



Chad Haney  
President

**SECTION 0500**

**AGREEMENT BETWEEN  
CITY OF FAYETTEVILLE AND H & H DIRECTIONAL BORING, INC.**

**THIS AGREEMENT** is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2013 by and between the **CITY OF FAYETTEVILLE** and **H & H DIRECTIONAL BORING, INC.**.

1. The **H & H DIRECTIONAL BORING, INC.** shall commence and complete all Work as specified or indicated in the Contract Documents. The **WORK** is generally described as follows:

**FEMA PROJECT – LOCATION 22 SANITARY SEWER**

2. The **H & H DIRECTIONAL BORING, INC.** shall furnish all materials, supplies, tools, equipment, labor and other service necessary for the completion of the **WORK** described herein.
3. The **H & H DIRECTIONAL BORING, INC.** shall commence the **WORK** required by the **CONTRACT DOCUMENTS** on or before a date to be specified in the **NOTICE TO PROCEED** and completed and ready for final payment within **90** calendar days. The **H & H DIRECTIONAL BORING, INC.** shall pay the **CITY OF FAYETTEVILLE**, as liquidated damages, the sum of **\$500** for each calendar day thereafter that the **WORK** is not complete.
4. The **H & H DIRECTIONAL BORING, INC.** agrees to perform all of the **WORK** described in the **CONTRACT DOCUMENTS** and comply with the terms therein as shown in the **BID PROPOSAL**.
5. The term **CONTRACT DOCUMENTS** shall mean and include the following:
  - 5.1 Invitation to Bid
  - 5.2 Information for Bidders
  - 5.3 Supplemental Information for Bidders
  - 5.4 Bid Proposal
  - 5.5 Bid Bond
  - 5.6 Agreement Between City of Fayetteville and H & H Directional Boring, Inc.
  - 5.7 Performance and Payment Bond
  - 5.8 General Conditions
  - 5.9 Prevailing Wage Rates
  - 5.10 Notice of Award
  - 5.11 Notice to Proceed
  - 5.12 Project Manual
  - 5.13 Addenda Numbers 0 to 0.
  - 5.14 Change Orders

5.14 Change Orders

6. The **CITY OF FAYETTEVILLE** shall pay the **H & H DIRECTIONAL BORING, INC.** in the manner and at such 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.

8. **MISCELLANEOUS**

8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the 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.

8.3. City of Fayetteville 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.

8.4. 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 stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5. Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.

8.6. **Freedom of Information Act.** City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, Contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7. This contract must be interpreted under Arkansas Law.

**IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and H & H DIRECTIONAL BORING, INC.** have signed this Agreement in quadruplicate. One counterpart each has been delivered to City of Fayetteville and Engineer, and two counterparts have been delivered to Contractor. All portions of the Contract Documents have been signed, initialed, or identified by City of Fayetteville and Contractor or identified by Engineer on their behalf.

**OWNER**

**CONTRACTOR**

**CITY OF FAYETTEVILLE**

**H & H DIRECTIONAL BORING, INC.**

BY \_\_\_\_\_  
Mayor Lioneld Jordan

BY \_\_\_\_\_

[CORPORATE SEAL]

[CORPORATE SEAL]

ATTEST \_\_\_\_\_

ATTEST \_\_\_\_\_

Address for giving notices:

Address for giving notices:

113 W. Mountain  
Fayetteville, AR 72701

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

License No. \_\_\_\_\_

Agent for service of process: \_\_\_\_\_

\_\_\_\_\_

(If **CONTRACTOR** is a corporation, attach evidence of authority to sign.)

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**END OF SECTION 0500**

## SECTION 0660

### CONTRACTOR'S ACT OF ASSURANCE FORM

As the authorized representative of the individual, incorporation, or corporation (hereinafter referred to as the company) bidding on or participating in the project, I certify that I have read and understand the requirements of the General and/or Supplemental Conditions and that the principles, agents and employees of the company will comply with these requirements including all relevant statutes and regulations issued pursuant thereto. I further certify as the authorized agent of the company that:

**EQUAL OPPORTUNITY** I will comply with all requirements of 41 CFR Chapter 60 and Executive Orders 11246 and 11375, including inclusion of all required equal opportunity clauses in each sub-contract awarded in excess of \$10,000 and I will furnish a similar statement from each proposed subcontractor, when appropriate. I will also comply with all Equal Employment Opportunity requirements as defined by Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 regarding sex discrimination.

**NONSEGREGATED FACILITIES** The company that I represent does not and will not maintain any facilities provided for its employees in a segregated manner, or permit its employees to perform their services at any location under company control where segregated facilities are maintained; and that the company will obtain a similar certification prior to the award of any subcontract exceeding \$10,000 which is not exempt from the equal opportunity clause.

**LABOR STANDARDS** I will comply with the Labor Standards Provisions contained in the Contract Documents and furnish weekly payrolls and certifications as may be required by the City of Fayetteville to affirm compliance. I will also require that weekly payrolls be submitted to the City of Fayetteville for all subcontracts in excess of \$2,000.

**OSHA REQUIREMENTS** I will comply with the Department of Labor Safety and Health Regulations promulgated under Section 107 of the Contract Work Hours and Safety Standard Act (40 U.S.C. 327-333) in the performance of the contract.

**PROCUREMENT PROHIBITIONS** As required by Executive Order 11738, Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, I certify that I will not procure goods and services from persons who have been convicted of violations of either law if the goods or services are to be produced by the facility that gave rise to the violation.

**DEBARMENT AND SUSPENSION** I certify that to the best of my knowledge and belief that the company that I represent and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;



(b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

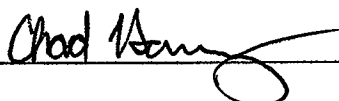
(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

**AUTHORIZED REPRESENTATIVE**

COMPANY NAME: H & H Directional Boring, Inc.

SIGNATURE:  DATE: June 25, 2013

PRINTED NAME: Chad Haney TITLE: President

**END OF SECTION 0660**

## SECTION 0700

### GENERAL CONDITIONS

1. Definitions
2. Additional Instructions and Detail Drawings
3. Schedules, Reports and Records
4. Drawings and Specifications
5. Shop Drawings
6. Materials, Services and Facilities
7. Inspection and Testing
8. Substitutions
9. Patents
10. Surveys, Permits, and Regulations
11. Protection of Work, Property, and Persons
12. Supervision by Contractor
13. Changes in the Work
14. Changes in Contract Price
15. Time for Completion and Liquidated Damages
16. Correction of Work
17. Subsurface Conditions
18. Suspension of Work, Termination and Delay
19. Payments to Contractor
20. Acceptance of Final Payment as Release
21. Insurance
22. Contract Security
23. Assignments
24. Indemnification
25. Separate Contracts
26. Subcontracting
27. Engineer's Authority
28. Land and Rights-of-Way
29. Guaranty
30. Taxes
31. Excess Engineering Costs
32. Documents to be Kept on the Job Site
33. Prosecution of the Work
34. Sanitary Facilities

## 1. DEFINITIONS

- 1.1 Wherever used in the Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof:
- 1.2 ADDENDA - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, Drawings and Specifications, by additions, deletions, clarifications or corrections.
- 1.3 BID - The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
- 1.4 BIDDER - Any qualified person, firm or corporation submitting a Bid for the Work.
- 1.5 BONDS - Bid, Performance and Payment Bonds and other instruments of security, furnished by the Contractor and his surety in accordance with the Contract Documents.
- 1.6 CHANGE ORDER - A written order to the Contractor authorizing an addition, deletion or revision in the Work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time.
- 1.7 CONTRACT DOCUMENTS - The contract, including Advertisement For Bids, Information For Bidders, Bid Proposal, Bid Bond, Agreement, Payment Bond, Performance Bond, Notice Of Award, Notice To Proceed, Change Order, Drawings, Specifications, and Addenda.
- 1.8 CONTRACT PRICE - The total monies payable to the Contractor under the terms and conditions of the Contract Documents.
- 1.9 CONTRACT TIME - The number of calendar days stated in the Contract Documents for the completion of the Work.
- 1.10 CONTRACTOR - The person, firm or corporation with whom the City of Fayetteville has executed the Agreement.
- 1.11 DRAWINGS - The part of the Contract Documents which show the characteristics and scope of the Work to be performed and which have been prepared or approved by the Engineer.
- 1.12 ENGINEER – The Engineering Department of the City of Fayetteville, or their authorized representative.

- 1.13 FIELD ORDER - A written order effecting a change in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time, issued by the Engineer to the Contractor during construction.
- 1.14 NOTICE OF AWARD - The written notice of the acceptance of the Bid from the City of Fayetteville to the successful Bidder.
- 1.15 NOTICE TO PROCEED - Written communication issued by the City of Fayetteville to the Contractor authorizing the Contractor to proceed with the Work and establishing the date of commencement of the Work.
- 1.16 OWNER – The City of Fayetteville.
- 1.17 PROVIDE – Furnish and install, complete in place, operating, tested and approved.
- 1.18 PROJECT - The undertaking to be performed as provided in the Contract Documents.
- 1.19 PRODUCTS – The materials, systems, and equipment provided by the Contractor.
- 1.20 PROJECT REPRESENTATIVE - The authorized representative of the City of Fayetteville who is assigned to the Project site or any part thereof.
- 1.21 SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, Manufacturer, Supplier or Distributor, which illustrate how specific portions of the Work shall be fabricated or installed.
- 1.22 SPECIFICATIONS - A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.
- 1.23 SUBCONTRACTOR - An individual, firm or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work at the site.
- 1.24 SUPPLEMENTAL GENERAL CONDITIONS - Modifications to General Conditions required by a Federal agency for participation in the Project and approved by the agency in writing prior to inclusion in the Contract Documents.
- 1.25 SUPPLIERS - Any person, supplier or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

- 1.26 WORK - All labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in the Project.
- 1.27 WRITTEN NOTICE - Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address, or delivered in person to said party or his authorized representative on the Work.

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

- 2.1 The Contractor may be furnished additional instructions and detail drawings, by the Engineer, as necessary to carry out the Work required by the Contract Documents.
- 2.2 The additional drawings and instructions thus supplied will become a part of the Contract Documents. The Contractor shall carry out the Work in accordance with the additional detail drawings and instructions.

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

- 3.1 The Contractor shall submit to the City of Fayetteville such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the City of Fayetteville may request concerning Work performed or to be performed.
- 3.2 Prior to the first partial payment estimate the Contractor shall submit schedules showing the order in which the Contractor proposes to carry on the Work, including dates at which the Contractor will start the various parts of the Work, estimated date of completion of each part and, as applicable:
  - 3.2.1 The dates at which special detail drawings will be required; and
  - 3.2.2 Respective dates for submission of Shop Drawings, the beginning of manufacture, the testing and the installation of materials, supplies, and equipment.
- 3.3 The Contractor shall also submit a schedule of payments that the Contractor anticipates earning during the course of the Work.

## **4. DRAWINGS AND SPECIFICATIONS**

- 4.1 The intent of the Drawings and Specifications is that the Contractor shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the Work in accordance with the Contract Documents and all incidental work necessary to complete the Project in an acceptable manner, ready for use, occupancy or operation by the City of Fayetteville. The Drawings and Specifications

are intended to supplement but not duplicate each other. An item of Work indicated in one and not the other shall be performed by the Contractor just as if it had been indicated in both.

- 4.2 It is understood and agreed that the Contractor has, by careful examination, satisfied himself as to the nature and location of the Work, the conformation of the ground, the character of the equipment and facilities needed preliminary to and during the prosecution of the Work, the character, quality and quantity of the materials to be encountered, the general and local conditions, and all other matters which can, in any way, affect the Work under this Contract.
- 4.3 Figure dimensions on Drawings shall govern over scale dimensions, and detailed Drawings shall govern over general Drawings. The Contractor shall not perform Work based on "scaled" measurements of Drawings, but shall obtain written instructions from the Engineer as to the dimensions to be used before proceeding with the Work.
- 4.4 Any discrepancies found between the Drawings and Specifications and site conditions or any inconsistencies or ambiguities in the Drawings or Specifications shall be immediately reported to the Engineer, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's risk.
- 4.5 The Specifications are written in imperative and abbreviated form. The imperative language is directed at the Contractor, unless specifically noted otherwise. Incomplete sentences shall be completed by inserting "shall," "the Contractor shall," "shall be:," and similar mandatory phrases by inference in the same manner as they are applied to notes on the Drawings. The words "shall be:" shall be supplied by inference where a colon (:) is used within sentences or phrases. Except as worded to the contrary, all indicated requirements shall be performed whether stated imperatively or otherwise.
- 4.6 Whenever the term "Work Included" is used as an article or paragraph heading in Part 1 of a Specification Section, it is merely a listing of the significant items described with the section and is not intended to "scope" the section or to imply a trade responsibility."
- 4.7 Whenever the words "approved," "satisfactory," "directed," "submitted," "inspected," or similar words or phrases are used in the Contract Documents, it shall be assumed that the term "Engineer or his representative" follows the verb as the object of the clause, such as "approved by the Engineer or his representative," or "submitted to the Engineer or his representative."

## **5. SHOP DRAWINGS**

- 5.1 The Contractor shall provide Shop Drawings as may be necessary for the prosecution of the Work as required by the Contract Documents. The Engineer shall promptly review all Shop Drawings. The Engineer's approval of any Shop Drawing shall not release the Contractor from responsibility for deviations from the Contract Documents. The approval of any Shop Drawings which substantially deviates from the requirement of the Contract Documents shall be evidenced by a Change Order.
- 5.2 When submitted for the Engineer's review, Shop Drawings shall bear the Contractor's certification that the Contractor has reviewed, checked and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Documents.
- 5.3 Portions of the Work requiring a Shop Drawing or sample submission shall not begin until the Shop Drawing or submission has been approved by the Engineer. A copy of each approved Shop Drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the Engineer.

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

- 6.1 It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the Work within the specified time.
- 6.2 Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work shall be located so as to facilitate prompt inspection.
- 6.3 Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
- 6.4 Materials, supplies and equipment shall be in accordance with samples submitted by the Contractor and approved by the Engineer.
- 6.5 Materials, supplies or equipment to be incorporated into the Work shall not be purchased by the Contractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

## 7. INSPECTION AND TESTING

- 7.1 All materials and equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with generally accepted standards.
- 7.2 The Contractor shall provide at his expense the necessary testing and inspection services required by the Contract Documents, unless otherwise provided.
- 7.3 The City of Fayetteville shall provide all other inspection and testing services not required by the Contract Documents.
- 7.4 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested, or approved by someone other than the Contractor, the Contractor will give the Engineer timely notice of readiness. The Contractor will then furnish the Engineer the required certificates of inspection, testing or approval.
- 7.5 Neither observations by the Engineer nor inspections, tests or approvals by persons other than the Contractor shall relieve the Contractor from his obligations to perform the Work in accordance with the requirements of the Contract Documents.
- 7.6 The Engineer and his representatives will at all times have access to the Work. In addition, authorized representatives and agents of any participating Federal or State agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection, or testing thereof.
- 7.7 If any Work is covered contrary to the written request of the Engineer it must, if requested by the Engineer, be uncovered for his observation and replaced at the Contractor's expense.
- 7.8 If any Work has been covered which the Engineer has not specifically requested to observe prior to its being covered, or if the Engineer considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor at the Engineer's request, will uncover, expose or otherwise make available for observation, inspection or testing as the Engineer may require, that portion of the Work in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such Work is defective, the Contractor will bear all expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If, however, such Work is not found to be defective, the Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate Change Order shall be issued.



## **8. SUBSTITUTIONS**

8.1 Whenever a material, article or piece of equipment is identified on the Drawings or Specifications by reference to brand name or catalogue number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The Contractor may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalogue number, and if, in the opinion of the Engineer, such material, article, or piece of equipment is of equal substance and function to that specified, the Engineer may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the Contract Price and the Contract Documents shall be appropriately modified by Change Order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the Project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time.

## **9. PATENTS**

9.1 The Contractor shall pay all applicable royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and save the City of Fayetteville harmless from loss on account thereof, except that the City of Fayetteville shall be responsible for any such loss when particular process, design, or the product of a particular manufacturer or manufacturers is specified, but if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, the Contractor shall be responsible for such loss unless the Contractor promptly gives such information to the Engineer.

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

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

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

- 10.3 Permits and licenses of a temporary nature necessary for the prosecution of the Work shall be secured and paid for by the Contractor. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the City of Fayetteville, unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn and specified. If the Contractor observes that the Contract Documents are at variance therewith, the Contractor shall promptly notify the Engineer in writing, and any necessary changes shall be adjusted as provided in Section 13, Changes In The Work.

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

- 11.1 The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the Work and other persons who may be affected thereby, all the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- 11.2 The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. The Contractor will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. The Contractor will notify owners of adjacent utilities when prosecution of the Work may affect them. The Contractor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable, except damages or loss attributable to the fault of the Contract Documents or to be acts or omissions of the City of Fayetteville or the Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Contractor.
- 11.3 In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Engineer or City of Fayetteville, shall act to prevent threatened damage, injury or loss. The Contractor will give the Engineer prompt Written Notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved.

## **12. SUPERVISION BY CONTRACTOR**

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

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

- 13.1 The City of Fayetteville may at any time, as the need arises, order changes within the scope of the Work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the Work, an equitable adjustment shall be authorized by Change Order.
- 13.2 The Engineer, also, may at any time, by issuing a Field Order, make changes in the details of the Work. The Contractor shall proceed with the performance of any changes in the Work so ordered by the Engineer unless the Contractor believes that such Field Order entitles him to a change in Contract Price or Time, or both, in which event the Contractor shall give the Engineer Written Notice thereof within fifteen (15) days after the receipt of the ordered change, and the Contractor shall not execute such changes pending the receipt of an executed Change Order or further instruction from the City of Fayetteville.

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

- 14.1 The Contract Price may be changed only by a Change Order. The value of any Work covered by a Change Order or of any claim for increase or decrease in the Contract Price shall be determined by one or more of the following methods in the order of precedence listed below:
- 14.1.1 Unit prices previously approved.
- 14.1.2 An agreed lump sum.
- 14.1.3 The actual cost for labor, direct overhead, materials, supplies equipment, and other services necessary to complete the work. In addition there shall be

added an amount to be agreed upon but not to exceed fifteen (15) percent of the actual cost of the Work to cover the cost of general overhead and profit.

14.2 The unit price of an item of Unit Price Work shall be subject to re-evaluation and adjustments under the following conditions:

14.2.1 If the total cost of a particular item of Unit Price Work amounts to five (5) percent or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement; and

14.2.2 If there is no corresponding adjustment with respect to any other item of Work; and

14.2.3 If Contractor believes that it has incurred additional expense as a result thereof; or

14.2.4 If Engineer believes that the quantity variation entitle it to an adjustment in the Unit Price, either Engineer or Contractor may make a claim for an adjustment in the Contract Price in accordance with Article 13, if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

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

15.1 The date of beginning and the time for completion of the Work are essential conditions of the Contract Documents and the Work embraced shall be commenced on a date specified in the Notice-To-Proceed.

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

15.3 The following holidays will be observed by the City of Fayetteville and have been considered when calculating the contract time.

- 15.3.1 New Year's Day
- 15.3.2 Martin Luther King, Jr.
- 15.3.3 President's Day
- 15.3.4 Memorial Day
- 15.3.5 Independence Day
- 15.3.6 Labor Day
- 15.3.7 Veteran's Day

- 15.3.8 Thanksgiving (2 days)
- 15.3.9 Christmas (2 days)
  
- 15.4 The calendar contract time includes delays for normal weather related events such as rain, snow, and freezing temperatures that may affect the progress of the Work. An average delay of five (5) calendar days per month has been considered when calculating the contract time. A request for an extension of time shall not be granted until the specific number of documented weather delays within the contract time has been exceeded, inclusive of weekends.
  
- 15.5 If the Contractor shall fail to complete the Work within the Contract Time, or extension of time granted by the City of Fayetteville, then the Contractor will pay to the City of Fayetteville the amount for liquidated damages as specified in the Agreement Between City of Fayetteville And Contractor for each calendar day that the Contractor shall be in default after the time stipulated in the Contract Documents.
  
- 15.6 The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the Work is due to the following, and the Contractor has promptly gives Written Notice of such delay to the City of Fayetteville or Engineer:
  - 15.6.1 To any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency.
  - 15.6.2 To any acts of the City of Fayetteville not contemplated by this Agreement.
  - 15.6.3 To causes not reasonable foreseeable by the parties of this Contract which are beyond the control and withhold the fault or negligence of the Contractor, including but not restricted to, acts of nature or of the public enemy, acts of another Contractor in the performance of some other Contract with the City of Fayetteville, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions; and,
  - 15.6.4 To any delay of any subcontractor occasioned by any of the causes specified in Subparagraphs 1, 2, and 3 of this Paragraph 15.6.
  
- 15.7 Provided, however, that the Contractor promptly notifies the City of Fayetteville in writing within ten (10) days of the cause of delay. Upon receipt of such notification, the City of Fayetteville shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and terms of the Contract, the delay is properly excusable, the City of Fayetteville shall extend the time for completing the Work for a period of time commensurate with the period of excusable delay.

## 16. CORRECTION OF WORK

- 16.1 The Contractor shall promptly remove from the premises all Work rejected by the Engineer for failure to comply with the Contract Documents, whether incorporated in the construction or not, and the Contractor shall promptly replace and re-execute the Work in accordance with the Contract Documents and without expense to the City of Fayetteville and shall bear the expense of making good all Work of other Contractors destroyed or damaged by such removal or replacement.
- 16.2 All removal and replacement Work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected Work within ten (10) days after receipt of Written Notice, the City of Fayetteville may remove such Work and store the materials at the expense of the Contractor.

## 17. SUBSURFACE CONDITIONS

- 17.1 In the preparation of Contract Documents, the Engineer has relied upon the report of soil and subsurface investigations listed in the Supplemental Information For Bidders (If Listed).
- 17.1.1 The above report is not part of the Contract Documents and is provided for information purposes only. Neither the City of Fayetteville nor the Engineer guarantees the accuracy of the report. The Contractor shall make further investigations and tests as deemed necessary.
- 17.2 The Work included in this Project may require excavation and related activities in close proximity to existing buried and aerial utility lines and facilities, such as water lines, sewer lines, storm drains, natural gas lines, electrical power lines, telephone cables, and TV cables. Where their presence is known, the approximate location of such utilities is shown on the Drawings, but all such utilities and individual service lines are not shown. The Contractor shall be aware of the potential for such utility lines to conflict with intended construction efforts, and the Contractor shall use appropriate precautionary measures to locate and protect such utility lines and services so as to avoid damage and interruptions to service.
- 17.3 The Contractor shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the City of Fayetteville by Written Notice of:
- 17.3.1 Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents; or
- 17.3.2 Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract Documents.

- 17.4 The City of Fayetteville shall promptly investigate the conditions, and if the City of Fayetteville finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the Work, and equitable adjustment shall be made and the Contract Documents shall be modified by a Change Order. Any claim of the Contractor for adjustment hereunder shall not be allowed unless the Contractor has given the required Written Notice; provided that the City of Fayetteville may, if the City of Fayetteville determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

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

- 18.1 The City of Fayetteville may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days or such further time as agreed upon by the Contractor, by Written Notice to the Contractor and the Engineer which notice shall fix the date on which Work shall be resumed. The Contractor will resume that Work on the date so fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension.
- 18.2 If the Contractor is adjudged as bankrupt or insolvent, or if the Contractor makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the Contractor or for any of his property, or if the Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if the Contractor repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if the Contractor repeatedly fails to make prompt payments to Subcontractors for labor, material or equipment or if the Contractor disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the Work or if the Contractor disregards the authority of the Engineer, or if the Contractor otherwise violates any provision of the Contract Documents, then the City of Fayetteville may, without prejudice to any other right or remedy and after giving the Contractor and his surety a minimum of ten (10) days from delivery of a Written Notice, terminate the services of the Contractor and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and finish the Work by whatever method the City of Fayetteville may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the City of Fayetteville. Such costs incurred by the City of Fayetteville will be determined by the Engineer and incorporated in a Change Order.

- 18.3 Where the Contractor's services have been so terminated by the City of Fayetteville, said termination shall not affect any right of the City of Fayetteville against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the City of Fayetteville due the Contractor will not release the Contractor from compliance with the Contract Documents.
- 18.4 After ten (10) days from delivery of a Written Notice to the Contractor and the Engineer, the City of Fayetteville may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Contract. In such case, the Contractor shall be paid for all Work executed and any expense sustained plus reasonable profit.
- 18.5 If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety (90) days by the City of Fayetteville or under an order of court or other public authority, or the Engineer fails to act on any request for payment within thirty (30) days after it is submitted, or the City of Fayetteville fails to pay the Contractor substantially the sum approved by the Engineer or awarded by arbitrators within thirty (30) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of a Written Notice to the City of Fayetteville and the Engineer, terminate the Contract and recover from the City of Fayetteville payment for all Work executed and all expenses sustained. In addition and in lieu of terminating the Contract, if the Engineer has failed to act on a request for payment or if the City of Fayetteville has failed to make any payment as aforesaid, the Contractor may upon ten (10) days notice to the City of Fayetteville and the Engineer stop the Work until the Contractor has been paid all amounts then due, in which event and upon resumption of the Work, Change Orders shall be issued for adjusting the Contract Price or extending the Contract Time or both to compensate for the costs and delays attributable to the stoppage of the Work.
- 18.6 If the performance of all or any portion of the Work is suspended, delayed, or interrupted as a result of a failure of the City of Fayetteville or Engineer to act within the time specified in the Contract Documents, or if no time is specified, within a reasonable time, an adjustment in the Contract Price or an extension of the Contract Time, or both, shall be made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of the City of Fayetteville or Engineer.

## **19. PAYMENTS TO CONTRACTOR**

- 19.1 At least ten days before each progress payment falls due (but not more often than once a month), the Contractor will submit to the Engineer a partial payment estimate filled out and signed by the Contractor covering Work performed during the period covered by the partial payment estimate and supported by such data as the Engineer may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting



data, satisfactory to the City of Fayetteville, as will establish the City of Fayetteville's title to the material and equipment and protect his interest therein, including applicable insurance. The Engineer will, within ten days after receipt of each partial payment estimate, either indicate in writing his approval of payment and present the partial payment estimate to the City of Fayetteville, or return the partial payment estimate to the Contractor indicating in writing his reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial payment estimate. The City of Fayetteville will endeavor within thirty (30) days of presentation of an approved partial payment estimate, pay the Contractor a progress payment on the basis of the approved partial payment estimate. The City of Fayetteville shall retain five (5) percent of the amount of each payment. No application for partial payment shall be made when, in the judgement of the Engineer, the total value of the Work done and materials incorporated into the Work under this Contract since the last preceding estimate amount is less than \$10,000 unless authorized by Engineer. On completion and acceptance of a part of the Work on which the price is stated separately in the Contract Documents, payment may be made in full, including retained percentages, less authorized deductions.

- 19.2 The request for payment may also include an allowance for the cost of such major materials and equipment which are securely stored either at or near the site.
- 19.3 All Work covered by partial payment made shall thereupon become the sole property of the City of Fayetteville, but this provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Work upon which payments have been made or the restoration of any damaged Work, or as a waiver of the right of the City of Fayetteville to require the fulfillment of all terms of the Contract Documents.
- 19.4 The City of Fayetteville will have the right to enter the premises for the purpose of doing work not covered by the Contract Documents. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Work, or the restoration of any damaged Work except such as may be caused by agents or employees of the City of Fayetteville.
- 19.5 Upon completion and acceptance of the Work, the Engineer shall issue a certificate attached to the final payment request that the Work has been accepted by him under the condition of the Contract Documents. The entire balance found to be due the Contractor, including the retained percentages, but except such sums as may be lawfully retained by the City of Fayetteville, shall be paid to the Contractor within thirty (30) days of completion and acceptance of the Work.
- 19.6 The Contractor will indemnify and save the City of Fayetteville or the City of Fayetteville's agents harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machines and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the Work. The Contractor shall, at the City of

Fayetteville's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the Contractor fails to do so the City of Fayetteville may, after having notified the Contractor, either pay unpaid bills or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of the Contract Documents, but in no event shall the provisions of this sentence be construed to impose any obligations upon the City of Fayetteville to either the Contractor, his surety, or any third party. In paying any unpaid bills of the Contractor, any payment so made by the City of Fayetteville shall be considered as a payment made under the Contract Documents by the City of Fayetteville to the Contractor and the City of Fayetteville shall not be liable to the Contractor for any such payments made in good faith.

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

20.1 The Acceptance by the Contractor of final payment shall be and shall operate as a release to the City of Fayetteville of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the City of Fayetteville and others relating to or arising out of this Work. Any payment, however, final or otherwise, shall not release the Contractor or his sureties from any obligations under the Contract Documents or the Performance Bond and Payment Bonds.

## **21. INSURANCE**

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

21.1.1 Claim under worker's compensation, disability benefit and other similar employee benefit acts;

21.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

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

21.1.4 Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or

- (2) by any other person;
- 21.1.5 Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- 21.1.6 Claims arising out of operation of Laws or Regulations for damages because of bodily injury or death of any person or for damage to property; and
- 21.1.7 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.
- 21.2 The Contractor shall procure and maintain, at his own expense, during the Contract Time, liability insurance as specified in Paragraph 21.7.
- 21.3 The Contractor shall secure, if applicable, "All Risk" type Builder's Risk Insurance for Work to be Performed. Unless specifically authorized by the City of Fayetteville, the amount of such insurance shall not be less than the Contract Price totaled in the Bid. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft, and smoke during the Contract Time, and until the Work is accepted by the City of Fayetteville. The policy shall name as the insured the Contractor, the Engineer, the City of Fayetteville and the Funding Agency.
- 21.4 The Contractor shall procure and maintain, at the Contractor's own expense, during the Contract Time, in accordance with the provisions of the laws of the state in which the work is performed, Workman's Compensation Insurance, including occupational disease provisions, for all of his employees at the site of the Project and in case any work is sublet, the Contractor shall require such Subcontractor similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this contract at the site of the Project is not protected under Workmen's Compensation statute, the Contractor shall provide, and shall cause such Subcontractor to provide, adequate and suitable insurance for the protection of his employees not otherwise protected.
- 21.5 Certificates of Insurance acceptable to the City of Fayetteville shall be filed with the City of Fayetteville prior to commencement of the Work. These Certificates shall contain a provision that coverages afforded under the policies will not be cancelled unless at least fifteen (15) days prior Written Notice has been given to the City of Fayetteville.
- 21.6 The Contractor shall not commence Work under this Contract or allow any subcontractor or anyone directly or indirectly employed by anyone of them to

commence Work until the Contractor has obtained all insurance required under this Article 21, and duly executed certificates of such insurance shall have been filed with the Engineer and the City of Fayetteville. Such certificates of insurance shall note that City of Fayetteville, Engineer, and Funding Agency have been endorsed as an additional insured on Contractor's comprehensive general liability policy.

- 21.7 The limits of liability for the insurance required under this Article 21 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

21.7.1 Worker's Compensation

- |    |                       |           |
|----|-----------------------|-----------|
| A. | State:                | Statutory |
| B. | Applicable Federal:   | Statutory |
| C. | Employer's Liability: | \$500,000 |

21.7.2 Comprehensive General Liability Insurance, includes Completed Operations:

- A. Bodily Injury Liability:  
\$1,000,000 Each Occurrence  
\$1,000,000 Annual Aggregate
- B. Property Damage Liability:  
\$1,000,000 Each Occurrence  
\$1,000,000 Annual Aggregate

21.7.3 Contractual Liability Insurance:

- A. Bodily Injury Liability:  
\$1,000,000 Each Occurrence  
\$1,000,000 Annual Aggregate
- B. Property Damage Liability:  
\$1,000,000 Each Occurrence  
\$1,000,000 Annual Aggregate

21.7.4 City of Fayetteville's and Contractor's Protective Liability Insurance:

- A. Bodily Injury Liability:  
\$1,000,000 Each Occurrence  
\$1,000,000 Annual Aggregate
- B. Property Damage Liability:  
\$1,000,000 Each Occurrence  
\$1,000,000 Annual Aggregate

21.7.5 Automobile Liability:

- A. Bodily Injury Liability:  
\$1,000,000 Each Person  
\$1,000,000 Annual Aggregate
- B. Property Damage Liability:  
\$ 250,000 Each Occurrence

**22. CONTRACT SECURITY**

- 22.1 The Contractor shall within ten (10) days after the receipt of the Notice Of Award furnish the City of Fayetteville with a Performance and Payment Bond in penal sums equal to the amount of the Contract Price, conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions and agreements of the Contract Documents, and upon the prompt payment by the Contractor to all persons supplying labor and materials in the prosecution of the Work provided by the Contract Documents. Such Bonds shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the state in which the Work is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these Bonds shall be borne by the Contractor. If at any time a surety on any such bond is declared a bankrupt or loses its right to do business in the state in which the Work is to be performed or is removed from the list of Surety Companies accepted on Federal Bonds, Contractor shall within ten (10) days after notice from the City of Fayetteville to do so, substitute an acceptable Bond (or Bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the City of Fayetteville. The premiums on such Bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties have furnished an acceptable Bond to the City of Fayetteville.
- 22.2 At the time of Final Acceptance of the Work by the City of Fayetteville, the Contractor shall furnish to the City of Fayetteville a Warranty Bond in the amount of fifty (50) percent of the amount of the final Contract Price. The Warranty Bond shall guarantee the Work in accordance with Article 29 of the General Conditions for the applicable warranty period of two (2) years from the date of Final Payment. It shall be on the form shown in Section 0640 - Warranty Bond.

## **23. ASSIGNMENTS**

23.1 Neither the Contractor nor the City of Fayetteville shall sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of his right, title or interest therein, or his obligations thereunder, without consent of the other party.

## **24. INDEMNIFICATION**

24.1 The Contractor will indemnify and hold harmless the City of Fayetteville and the Engineer and their agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the Work, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

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

24.3 The obligation of the Contractor under this paragraph shall not extend to the liability of the Engineer, his agents or employees arising out of the preparation or approval of maps, Drawings, opinions, reports, surveys, Change Orders, designs or Specifications, or the giving of or failure to give directions or instructions by the Engineer, or his agents, or employees, provided such giving or failure to give is the primary cause of injury or damage.

## **25. SEPARATE CONTRACTS**

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

- 25.2 The City of Fayetteville may perform additional Work related to the Project, or the City of Fayetteville may let other contracts containing provisions similar to these. The Contractor will afford the other Contractors who are parties to such Contracts (or the City of Fayetteville, if the City of Fayetteville is performing the additional Work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of Work, and shall properly connect and coordinate his Work with theirs.
- 25.3 If the performance of additional Work by other Contractors or the City of Fayetteville is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional Work. If the Contractor believes that the performance of such additional Work by the City of Fayetteville or others involves him in additional expense or entitles him to an extension of the Contract Time, the Contractor may make a claim therefore as provided in Sections 14 and 15.

## **26. SUBCONTRACTING**

- 26.1 The Contractor may utilize the services of specialty Subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty Subcontractors.
- 26.2 The Contractor shall perform a minimum of seventy (70%) of the Work.
- 26.3 The Contractor shall be fully responsible to the City of Fayetteville for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor.
- 26.4 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the Work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the City of Fayetteville may exercise over the Contractor under any provision of the Contract Documents.
- 26.5 Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the City of Fayetteville.

## **27. ENGINEERS AUTHORITY**

- 27.1 The Engineer shall act as the City of Fayetteville's representative during the construction period. The Engineer shall decide questions which may arise as to quality and acceptability of materials furnished and Work performed. The Engineer shall interpret the intent of the Contract Documents in a fair and unbiased manner. The Engineer will make visits to the site and determine if the Work is proceeding in accordance with the Contract Documents.

- 27.2 The Contractor will be held strictly to the intent of the Contract Documents in regard to the quality of materials, workmanship and execution of the Work. Inspections may be made at the factory or fabrication plant of the source of material supply.
- 27.3 The Engineer will not be responsible for the construction means, controls, techniques, sequences, or construction safety.
- 27.4 The Engineer shall promptly make decisions relative to interpretation of the Contract Documents.
- 27.5 The Engineer will have authority to determine the actual quantities and classifications of items of Unit Price Work performed by Contractor, and the written decisions of Engineer on such matters will be final, binding on Engineer and Contractor and not subject to appeal (except as modified by Engineer to reflect changed factual conditions).

**28. LAND AND RIGHTS-OF-WAY**

- 28.1 Prior to issuance of Notice-To-Proceed, the City of Fayetteville shall obtain all land and rights-of-way necessary for carrying out and for the completion of the Work to be performed pursuant to the Contract Documents, unless otherwise mutually agreed.
- 28.2 The City of Fayetteville shall provide to the Contractor information which delineates and describes the lands owned and rights-of-way acquired.
- 28.3 The Contractor shall provide at his own expense and without liability to the City of Fayetteville any additional land and access thereto that the Contractor may desire for temporary construction facilities, or for storage of materials.

**29. GUARANTY**

- 29.1 If within two years after the date of Final Payment or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Document, any Work is found to be defective, Contractor shall promptly, without cost to City of Fayetteville and in accordance with City of Fayetteville's written instructions, either correct such defective Work, or if it has been rejected by City of Fayetteville, remove it from the site and replace it with non-defective Work. If Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, City of Fayetteville may have the defective Work corrected or the rejected Work removed and replace, and all direct, indirect and consequential costs of such correction, removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys, surveyors, and other professionals) will be paid by Contractor. In special circumstances where a particular item of equipment is placed in continuous service before Final Acceptance of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Agreement.



**30. TAXES**

30.1 The Contractor will pay all sales, consumer, use and other similar taxes required by the law of the place where the Work is performed.

**31. EXCESS ENGINEERING COSTS**

31.1 Excess engineering costs shall be applicable during the execution of the contract.

31.2 The City of Fayetteville shall charge the Contractor for all engineering and construction observation expenses incurred by City of Fayetteville in connection with any overtime work. For any such overtime during the regular specified Contract Time beyond the regular eight hour day (40 hours Monday through Friday) and for any time worked on Saturday, Sunday, or holidays, the charges for such personnel will be as provided in the Schedule of Charges below.

31.3 These charges for excess engineering will be deducted from the Contractor's monthly payment request.

31.4 Base Rate Schedule of Charges to be as follows for all engineering and construction observation expenses incurred by the City of Fayetteville in connection with any overtime work. Overtime, Saturday, and Sunday work shall be calculated as 1.5 times the base hourly rate. Holiday work shall be calculated as 2.0 times the base hourly rate.

Personnel	Base Hourly Rate
Project Engineer	\$ 110.00
Construction Manager	80.00
Resident Project Representative	60.00

31.5 The Contractor shall not work over a 10-hour day without written permission from the City of Fayetteville.

31.6 The Engineer shall determine when observation of construction activities beyond the regular eight-hour day is required.

31.7 The City of Fayetteville shall charge the Contractor for all engineering and construction observation expenses incurred by City of Fayetteville in connection with any work that occurs after the original final completion date of the contract, unless the contract time has been extended by written change order. Expenses shall be at the rates identified in Paragraph 31.4.

**32. DOCUMENTS TO BE KEPT ON THE JOB SITE**

- 32.1 The Contractor shall keep one copy of the Contract Documents on the job site, in good order, available to the Engineer and to his representatives.
- 32.2 The Contractor shall maintain on a daily basis at the job site, and make available to the Engineer on request, one current record set of the Drawings which have been accurately marked up to indicate all modifications in the completed Work that differ from the design information shown on the Drawings. Upon substantial completion of the Work, the Contractor shall give the Engineer one complete set of marked up record Drawings.
- 32.3 Failure of the Contractor to submit accurate Record Drawings to the Engineer will be adequate justification for postponement of the Final Inspection and Final Payment.

**33. PROSECUTION OF THE WORK**

- 33.1 It is expressly understood and agreed that the time of beginning, rate of progress, and time of completion of the Work are the essence of this Contract. The Work shall be prosecuted at such time, and in or on such part or parts of the Project as may be required, to complete the Project as contemplated in the Contract Documents and the approved construction schedule.
- 33.2 Regular Work hours shall be from 7:00 a.m. to 6:00 p.m. Monday through Friday. No Work requiring the presence of the Engineer's representative will be performed outside of regular Work hours without prior written approval from the City of Fayetteville.

**34. SANITARY FACILITIES**

- 34.1 The Contractor shall furnish, install, and maintain ample sanitary facilities for the workers. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required by the sanitary codes of the State and County. Drinking water shall be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

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**END OF SECTION 0700**

**SECTION 0830**  
**PREVAILING WAGE RATES**

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General Decision Number: AR130172 01/04/2013 AR172

Superseded General Decision Number: AR20120172

State: Arkansas

Construction Type: Heavy  
Heavy Construction

County: Washington County in Arkansas.

Modification Number      Publication Date  
0                              01/04/2013

ENGI0624-003 01/01/2009

	Rates	Fringes
Operating Engineer: Roller (Dirt and Grade Compaction).....	\$ 22.00	9.80

\* PAIN0424-007 07/01/2012

	Rates	Fringes
PAINTER: Brush and Roller.....	\$ 14.60	6.17

\* SUAR2008-169 11/21/2008

	Rates	Fringes
CARPENTER.....	\$ 12.94	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 11.00	0.68
ELECTRICIAN.....	\$ 20.61	3.92
IRONWORKER, REINFORCING.....	\$ 17.38	0.00
LABORER: Common or General.....	\$ 9.94	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 11.67	0.00
LABORER: Pipelayer.....	\$ 9.78	0.00
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 16.00	0.00
OPERATOR: Bulldozer.....	\$ 14.33	1.75
OPERATOR: Crane.....	\$ 19.26	0.00
OPERATOR: Loader (Front End)....	\$ 12.94	0.00
OPERATOR: Mechanic.....	\$ 17.25	0.00
OPERATOR: Piledriver.....	\$ 17.21	0.00

OPERATOR: Scraper.....	\$ 9.00	0.00
OPERATOR: Tractor.....	\$ 11.13	0.00
OPERATOR: Trencher.....	\$ 14.76	0.00
PAINTER: Spray.....	\$ 20.15	3.50
TRUCK DRIVER.....	\$ 9.00	0.00

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

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

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

#### Union Identifiers

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

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

0000/9999: weighted union wage rates will be published annually each January.

#### Non-Union Identifiers

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

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

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WAGE DETERMINATION APPEALS PROCESS

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

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

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

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

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

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

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

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material,



etc.) that the requestor considers relevant to the issue.

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

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

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

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END OF GENERAL DECISION

**SECTION 0840**  
**NOTICE OF AWARD**

Date

Contractor  
Address

**Re: Project**

The City of Fayetteville has considered the bid submitted by **Contractor** for construction of the **Project** in response to its Advertisement for Bids and Instructions to Bidders.

**Contractor** is hereby notified that their bid has been accepted and awarded in the amount of **\$Value**.

**Contractor** is required to deliver the required Performance and Payment bonds (filed with the Washington County Circuit Clerk), and certificates of insurance within 10 business days.

A preconstruction conference will be scheduled in Room 111 of the Fayetteville City Hall, 113 West Mountain once a date and time has been agreed upon. Representatives of **Contractor** and the City of Fayetteville shall attend. I ask that **Contractor** bring a preliminary construction progress schedule and a preliminary schedule of values to the preconstruction conference.

The intent is to issue the Notice to Proceed at the preconstruction conference.

Work should commence with a start date within two weeks of issuance of the Notice to Proceed.

**Contractor** is required to return an acknowledged copy of this Notice of Award to the City of Fayetteville.

We look forward to working with you on this project. Please email me at [shjones@ci.fayetteville.ar.us](mailto:shjones@ci.fayetteville.ar.us) or call 479-444-3452 if you have any questions.

Sincerely,

**City of Fayetteville, Arkansas**

Shannon W. Jones, P.E.  
Utilities Engineer

ACCEPTANCE OF NOTICE

Receipt of the above Notice of Award for the **Project** is hereby acknowledged.

By **Contractor**,

this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

By \_\_\_\_\_

Title \_\_\_\_\_

**END OF SECTION 0840**

**SECTION 0845**  
**NOTICE TO PROCEED**

Date

Contractor  
Address

**Re: Project**

This is the official Notice to Proceed for the **Project**, in accordance with your bid and the agreement between your firm and the City of Fayetteville.

The Contract Time(s) will commence on **Date**. By that date, you are to start performing your obligations under the Contract Documents. In accordance with the Agreement between City of Fayetteville and **Contractor**, the date of Final Completion is **Date**.

Before you may start any work at the Site, you must submit the following:

- Preliminary construction progress schedule.
- Preliminary schedule of submittals.
- Preliminary schedule of values.

We look forward to working with you on this project.

Please email me at [shjones@ci.fayetteville.ar.us](mailto:shjones@ci.fayetteville.ar.us) or call 479-444-3452 if you have any questions.

Sincerely,

**City of Fayetteville, Arkansas**

Shannon Jones, P.E.  
Utilities Engineer

ACCEPTANCE OF NOTICE

Receipt of the above Notice to Proceed for the **Project** is hereby acknowledged

by Contractor,

this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

By \_\_\_\_\_

Title \_\_\_\_\_

**END OF SECTION 0845**

**SECTION 0900**  
**DESCRIPTION OF UNIT PRICE SCHEDULE ITEMS**

**PART 1 – GENERAL**

**1.01 SCOPE OF WORK**

- A. The work shall consist of furnishing all plant, labor and material in performing all operations in connection with maintaining, repairing, and relocating the sanitary sewer system as listed in **Section 0310 – Bid Proposal**.
- B. All work shall be completed in strict accordance with the plans and specifications.
- C. Furnish or construct all items required for this project even if they are not listed on the Unit Price Schedule.

**1.02 PAYMENT**

- A. Payment will be made for work shown to be completed on the current month's partial payment request.
- B. Final payment will not be made until all work has been completed and accepted by the City of Fayetteville.

**PART 2 - UNIT PRICES**

**2.01 GENERAL**

- A. It is the intent of the Unit Price Bid Schedule that aggregate bid amounts as submitted shall cover all costs for labor, material, equipment, and any other items incidental to the unit price items, even if not specifically listed below.
- B. No costs in connection with work required by the Contract Documents for proper and successful completion of the Contract will be paid outside of or in addition to prices submitted.
- C. Each Bid item will be measured and paid for by the units constructed within the various classifications for which prices are stated in the Unit Price Bid Schedule.
- D. Quantities all based on estimates only.

## 2.02 MOBILIZATION

- A. The Bid Amount for this item shall include the following:
1. All preparatory work and operations necessary for movement of personnel, equipment, supplies, and incidentals to the Project Site.
  2. Establishment of temporary offices, storage buildings, sanitary facilities, and other facilities necessary to undertake the Project.
  3. Work and operations which must be performed, or for expenses incurred, prior to beginning work on the Project.
  4. Any preconstruction cost (not including bidding cost) not directly attributable to other pay items in this Section.
- B. Mobilization shall be measured and paid by Lump Sum. Payment shall be based on the percentage of total Contract price completed. The amount of Mobilization paid and when are shown below:
- |                                    |                      |
|------------------------------------|----------------------|
| First Estimate                     | 25% of Mobilization  |
| 10% Total Contract Price Completed | 50% of Mobilization  |
| 25% Total Contract Price Completed | 100% of Mobilization |
- Total Contract Price Completed shall be actual construction completed and does not include materials stored.
- C. In no case shall the amount bid for Mobilization exceed five (5) percent of the Total Contract Amount listed in Section 0310 BID PROPOSAL. A bid with mobilization exceeding five (5) percent of the total bid shall be rejected.

## 2.03 TRENCH & SAFETY SYSTEMS

- A. The bid amount for this item shall include the following:
1. All labor, equipment, and materials necessary to comply with all Safety Standards in the Contract Documents, including 29 CFR Part 1926 Subpart P - Excavations.
  2. Anything incidental to this bid item that is necessary for the Safety of the Project according to the Contract Documents.
- B. Safety shall be measured and paid by Lump Sum. Payment made each Estimate shall be equal to the percentage of total Contract Price completed at the time of the Estimate. Total Contract Price completed shall be the actual construction complete and does not include materials stored. No additional payment will be made under this item due to any additions in the Contract Documents.

## **2.04 EROSION CONTROL**

- A. The bid amount for this item shall include the following:
  - 1. All labor, equipment, and materials necessary to construct temporary and permanent erosion protection related to grubbing, grading, excavation, paving, and other work
  - 2. Anything incidental to this bid item that is necessary to complete Erosion Control according to the Contract Documents.
- B. Erosion Control shall be measured and paid by Lump Sum. Payment made each Estimate shall be equal to the percentage of total Contract Price completed at the time of the Estimate. Total Contract Price completed shall be the actual construction complete and does not include materials stored. No additional payment will be made under this item due to any additions in the Contract Documents.

## **2.05 STEEL ENCASEMENT PIPE**

- A. The bid amount for this item shall include the following:
  - 1. All labor, equipment, and materials necessary to install the Steel Encasement Pipe according to the Grade and Elevations shown in the Contract Documents.
  - 2. Size of Steel Encasement Pipe shall be as shown in Section 0310 Bid Proposal.
  - 3. All encasement pipe, installation of encasement pipe, cutting of pipe, welding of pipe, entry and exit pit excavation and backfill, rock excavation, dewatering, installation of water pipe with casing spacers, installation of cathodic protection (jack & bore), double polywrap encasement (if direct bury), and sealing the ends of the encasement. Refer to Section 3400 – Steel Encasement Pipe for installation of encasement pipe.
  - 4. The City of Fayetteville will provide the water pipe, casing spacers, end seals, and cathodic protection anodes. The Contractor shall install the water pipe with casing spacers through the steel encasement, end seals and cathodic protection anodes.
  - 5. The Contractor is responsible for backfilling the entry and exit pits and shall work with the City of Fayetteville Water & Sewer Division to install



the water line from the steel encasement to the upper 45 degree bends and temporary plugs as shown on the Drawings.

6. Anything incidental to this bid item that is necessary to complete the Steel Encasement Pipe installation according to the Contract Documents.
- B. Steel Encasement Pipe shall be measured and paid by the linear foot. Measurement of the Steel Encasement Pipe shall be made horizontally along the centerline of the installed encasement pipe.

**END OF SECTION 0900**

