

**CITY OF BREWER**  
**CONTRACT DOCUMENTS**  
**FOR**  
**Doyle Field LED Lighting**  
**Facility Modernization Project**  
**BREWER, MAINE**

**August 1, 2024**

**CITY OF BREWER, MAINE**

**Doyle Field LED Lighting Facility Modernization Project**

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## NOTICE TO CONTRACTORS

The City of Brewer is currently seeking proposals from interested and qualified vendors for the purpose of designing and installing a lighting system for the Doyle Field Recreational Facility, located at 318 Wilson Street, Brewer, using an LED lighting source, along with the removal of the current system. The manufacturer/contractor shall supply lighting equipment to meet or exceed the standards set forth in these specifications as well as meet all state and local codes.

The primary goals of this sports lighting project are:

1. Removal of existing lighting system along with the design and installation of a new LED Lighting System for Doyle Field.
2. Guaranteed Light Levels that will not drop below specified target values for a period of 25 years.
3. Environmental Light Control: This facility is located adjacent to neighbors and road ways, it is a primary goal of this project to minimize spill light to adjoining properties while also reducing glare to the players, spectators and neighbors by design.
4. Control and Monitoring: Allow for optimized use of resources with a remote on/off control system. The system should also monitor lighting performance and notify manufacturer/owner if luminaire outage is detected for the full 25-year life cycle.

Interested Proposers may obtain proposal information and specifications for the project by contacting Brewer Parks & Recreation Department at (207) 989-5199. For consideration, the attached RFP form must be sealed in an envelope, distinctly marked, "Doyle Field LED Lighting Facility Modernization Project" and must be received at the Office of Michael Martin, Director of Brewer Parks & Recreation Dept., 318 Wilson Street, Brewer, ME by 1:00 PM, Wednesday, September 4, 2024. Any Proposals received after the date and time specified will not be allowed. All proposal questions must be received by "three days prior to bid", all questions received after that time will not be answered.

Note: In conjunction with submission of proposals, the enclosed "Certification Regarding Lobbying" form must be completed and included.

Prospective contractors should note that this project must be completed before June 27, 2025. The City of Brewer, Maine holds the exclusive right to reject or accept all or part of any or all proposals received.

**PROJECT TIME SCHEDULE**

Issue Request for Proposal:	Thursday, August 8, 2024
Pre-Proposal Conference (Optional)*	Wednesday, August 21, 2024
Proposals due	Wednesday, September 4, 2024
City Council Award	Tuesday, September 10, 2024
Contract Signed	Tuesday, September 17, 2024
Site ready for Installation	Monday, November 4, 2024
Final Projection Completion Date	Friday, June 27, 2025

*\*Optional Pre-Proposal Conference – Wednesday, August 21, 2024.*  
*Ferris Community Center, 318 Wilson Street, Brewer, Maine - 11:00 am.*

**Selection Criteria**

The following criteria will be used to select the proposal deemed to provide the best value for the City of Brewer:

- A: The cost of equipment and Installation – 50%
- B: Product quality – 15%
- C: Background, references and experiences with other similar projects – 15%
- D: Product warranties and features – 10%.
- E: The anticipated timeline for project completion – 10%

**EVALUATION**

The proposals will be evaluated and ranked in accordance with the above criteria. Based on the proposals, the Selection Committee will select one lighting professional and enter into a professional services contract.

The City shall have sole discretion in evaluating the proposals. The City reserves the right to select the proposal that it may determine to be in the best interest of the City. The City also reserves the right to reject any and all proposals, including that of the selected Proposer if satisfactory contract negotiations cannot be concluded.

The City intends to select and enter into a contract with the selected lighting professional by December 1, 2024, to begin working immediately on the Project

*The City of Brewer is an equal opportunity employer and service provider.*

## INFORMATION FOR BIDDERS

Contractor is responsible for obtaining and paying for all permits and licenses necessary for the implementation of the Work.

### REMOVAL OF EXSITING SYSTEM

Current lighting system, including poles and fixtures, to be removed and legally disposed. Fixtures and materials should be responsibly recycled as allowed. Removal should be carefully managed to prevent damage to the property.

*Unless otherwise indicated, demolition and construction waste become property of the Contractor.*

*Disposal records should indicate receipt and acceptance of waste by landfills and facilities licensed to accept them.*

*The Contractor shall restore the premises to conditions that existed prior to the start of the project for areas that were not intended to be altered. Disturbed grassed areas shall be reseeded and mulched.*

*Historic items, relics, and other items of interest or value to Owner that may be uncovered during demolition remain the property of Owner.*

### LIGHTING PERFORMANCE

**Illumination Levels and Design Factors:** Playing surfaces shall be lit to an average target illumination level and uniformity as specified below:

Lighting calculations shall be developed and field measurements taken on the grid spacing with the minimum number of grid points specified below. Appropriate light loss factors shall be applied and submitted for the basis of design. Average illumination level shall be measured in accordance with the IESNA LM-5-04 (IESNA Guide for Photometric Measurements of Area and Sports Lighting Installations). Illumination levels shall not to drop below desired target values in accordance to IES RP-6-15. Maintained Average Illuminance shall be guaranteed for the full warranty period.

Area:	Football/Soccer Field
Average Target Illumination Levels:	50 FC
Maximum to Minimum Uniformity Ratio:	2:1
Grid Points:	72
Grid Spacing:	30' x 30'

**Color:** The lighting system shall have a minimum color temperature of 5700K and a CRI of 75.

**Mounting Heights:** To ensure proper aiming angles for reduced glare and to provide better playability, minimum mounting heights shall be as described below. Higher mounting heights may be required based on photometric report and ability to ensure the top of the field angle is a minimum of 10 degrees below horizontal.

Minimum – Four (4) Poles  
Minimum Pole Height – 70'

- *Note one pole may need to be set back further to accommodate existing softball field dimensions.*

## ENVIRONMENTAL LIGHT CONTROL

**Light Control Luminaires:** All luminaires shall utilize spill light and glare control devices including, but not limited to, internal shields, louvers and external shields.

**Spill Light and Glare Control:** Facility is located near residential properties and road ways. To minimize impact on adjacent properties, spill light and candela values must not exceed the following levels taken at 3 feet above grade.

<u>Specified Spill Line</u>	<u>Maximum</u>
Horizontal Footcandles	.05 FC
Vertical Footcandles	.15 FC
Candela	6052.5 CD

**Spill Scans:** Spill scans must be submitted indicating the amount of horizontal and vertical footcandles along the specified lines. Light levels shall be taken at 30-foot intervals along the boundary line. Readings shall be taken with the meter orientation at both horizontal and aimed towards the most intense bank of lights. Illumination level shall be measured in accordance with the IESNA LM-5-04 after 1 hour warm up.

A photometric report for all luminaire types proposed showing horizontal and vertical axial candle power shall be provided to demonstrate the capability of achieving the specified performance. Reports shall be certified by a qualified testing laboratory. A summary of the horizontal and vertical aiming angles for each luminaire shall be included with the photometric report.

**Facility perimeter Lighting:** Consideration for supplemental lighting from poles should also be utilized to assist with the safe passage from entrance, concession, restroom, winter ice rink area (softball infield area). This area should be lit to a minimum of 4 fc.

## PRODUCT

**Manufacturing Requirements:** All components shall be designed and manufactured as a system. All luminaires, wire harnesses, drivers and other enclosures shall be factory assembled, aimed, wired and tested. *Product must conform to Buy America requirements.*

**Durability:** All exposed components shall be constructed of corrosion resistant material and/or coated to help prevent corrosion. All exposed carbon steel shall be hot dip galvanized per ASTM A123. All wiring shall be enclosed within the cross-arms, pole, or electrical components enclosure.

**System Description:** Lighting system shall consist of galvanized steel poles and cross-arm assembly.

Lighting systems shall use concrete foundations. Foundation/base drawings should be project specific to where the project is located.

Manufacturer will supply all drivers and supporting electrical equipment

- a. Remote drivers and supporting electrical equipment shall be mounted approximately 10 feet above grade in aluminum enclosures, with disconnect per circuit for each pole structure located in the enclosure. The enclosures shall be touch-safe and include drivers and fusing with indicator lights on fuses to notify when a fuse is to be replaced for each luminaire.
- b. Manufacturer shall provide surge protection at the pole as recommended by IEEE C62.41.2\_2002.

Wire harness complete with an abrasion protection sleeve, strain relief and plug-in connections for fast, trouble-free installation.

All luminaires, visors, and cross-arm assemblies shall withstand 150 mph winds and maintain luminaire aiming alignment.

Control cabinet to provide remote on-off control, monitoring of the lighting system

Manufacturer shall provide lightning grounding as defined by NFPA 780 and be UL Listed per UL 96 and UL 96A.

- a. Safety: All system components shall be UL listed for the appropriate application

## **ELECTRICAL**

- a) Current Electric Service is 480 Volt, 3 Phase.
- b) Maximum total voltage drop: Voltage drop to the disconnect switch located on the poles shall not exceed three (3) percent of the rated voltage.
- c) All electrical conductor wires for distribution of power should be buried in conduit at depths as provided by NEC or applicable local code that may exceed NEC and safety regulations.
- d) The Contractor shall restore the premises to conditions that existed prior to the start of the project for areas that were not intended to be altered. Disturbed grassed areas shall be reseeded and mulched.

**Energy Consumption:** The kW consumption for the field lighting system shall be 57, or less.

## **CONTROL**

**Instant On/Off Capabilities:** System shall provide for instant on/off of luminaires.

**Dimming:** System shall provide for 3-stage dimming (high-medium-low).

**Remote Lighting Control System:** System shall provide a remote on/off control system as well as onsite manual on/off function. Remote control system should allow for access with a security code to schedule on/off system operation via a website, phone or email.

Controller shall accept and store 7-day schedules, be protected against memory loss during power outages, and shall reboot once power is regained and execute any commands that would have occurred during outage.

**Remote Monitoring System:** System shall monitor lighting performance and notify manufacturer if individual luminaire outage is detected so that appropriate maintenance can be scheduled. The controller shall determine switch position (manual or auto) and contactor status (open or closed).

**Management Tools:** Manufacturer shall provide a web-based database and dashboard tool of actual field usage and provide reports. Dashboard shall also show current status of luminaire outages, control operation and service.

Hours of Usage: Manufacturer shall provide a means of tracking actual hours of usage for the field lighting system that is readily accessible to the owner. Cumulative hours: shall be tracked to show the total hours used by the facility.

## **STRUCTURAL PARAMETERS**

**Wind Loads:** Wind loads shall be based on the 2015 International Building Code. Wind loads to be calculated using ASCE 7-10, an ultimate design wind speed of 115 and exposure category C.

**Pole Structural Design:** The stress analysis and safety factor of the poles shall conform to 2013 AASHTO Standard Specification for Structural Supports for Highway Signs, Luminaires, and Traffic Signals (LTS-6).

**Foundation Design:** The foundation design shall be based on soil parameters as outlined in the geotechnical report. If no geotechnical report is available, the foundation design shall be based on soils that meet or exceed those of a Class 5 material as defined by 2015 IBC Table 1806.2.

**Foundation Drawings:** Project specific foundation drawings stamped by a registered engineer in the state are required. The foundation drawings must list the moment, shear (horizontal) force, and axial (vertical) force at ground level for each pole.



## **SOIL QUALITY CONTROL**

It shall be the Contractor's responsibility to notify the Owner if soil conditions exist other than those on which the foundation design is based, or if the soil cannot be readily excavated. Contractor may issue a change order request / estimate for the Owner's approval / payment for additional costs associated with:

1. Providing engineered foundation embedment design by a registered engineer in the State of Massachusetts for soils other than specified soil conditions;
2. Additional materials required to achieve alternate foundation;
3. Excavation and removal of materials other than normal soils, such as rock, caliche, etc

## **FIELD QUALITY CONTROL**

Illumination Measurements: Upon substantial completion of the project and in the presence of the Contractor, Project Engineer, Owner's Representative, and Manufacturer's Representative, illumination measurements shall be taken and verified. The illumination measurements shall be conducted in accordance with IESNA LM-5-04.

### **Field Light Level Accountability**

1. Light levels are guaranteed not to fall below the target maintained light levels for the entire warranty period of 25 years. These levels will be specifically stated as "guaranteed" on the illumination summary provided by the manufacturer.
2. The contractor/manufacturer shall be responsible for conducting initial light level testing and an additional inspection of the system, in the presence of the owner, one year from the date of commissioning of the lighting.
3. The contractor/manufacturer will be held responsible for any and all changes needed to bring these fields back to compliance for light levels and uniformities. Contractor/Manufacturer will be held responsible for any damage to the fields during these repairs.

Correcting Non-Conformance: If, in the opinion of the Owner or his appointed Representative, the actual performance levels including foot candles and uniformity ratios are not in conformance with the requirements of the performance specifications and submitted information, the Manufacturer shall be required to make adjustments to meet specifications and satisfy Owner.

## **WARRANTY AND GUARANTEE**

25-Year Warranty: Each manufacturer shall supply a signed warranty covering the entire system for 25 years from the date of shipment. Warranty shall guarantee specified light levels.

**Maintenance:** Manufacturer shall monitor the performance of the lighting system, including on/off status, hours of usage and luminaire outage for 25 years from the date of equipment shipment. Parts and labor shall be covered such that individual luminaire outages will be repaired when the usage of any field is materially impacted. Manufacturer is responsible for removal and replacement of failed luminaires, including all parts, labor, shipping, and equipment rental associated with maintenance.

### **Bid Security**

Each Bidder must submit with his Proposal a certified check, bid bond, or cash in the amount of 5% of his bid as his guarantee that the Bidder will enter into the contract, if awarded. Said check, bid bond, or cash will be returned to all except the two lowest Bidders immediately following the opening of the bids and the two remaining sureties will be returned after the Owner and Contractor have agreed to the contract. If a contract has not been executed within sixty days after the opening of the bids the surety will be returned upon demand of the Bidders at any time thereafter, so long as he has not been notified of the acceptance of his bid. Any standard bid bond form will be considered acceptable by the City.

### **Withdrawal of Bids**

The Owner may consider informal, any bid not in accordance with the provisions hereof and may waive any informalities in, or reject any or all bids. Any Bidder may withdraw his bid prior to opening of the bids. Any bid received after the time and date specified shall not be considered. No Bidder may withdraw his bid for thirty days after the actual opening.

### **Qualified Bidder**

Bidder must be licensed and certified to perform the work and handle the materials necessary. Bidder, including all subcontractors, cannot be suspended or debarred from participating in government contracts. The Owner may make such investigations that he may deem necessary to determine the ability of the Bidder to perform the work and the bidder shall furnish to the owner all such information and data for this investigation as the Owner may request. Conditional bids will not be accepted. The Owner reserves the right to reject any bid after evidence submitted, or investigation of such Bidder fails to satisfy the Owner, in its sole opinion, that such Bidder is properly qualified to carry out the obligations of the Contract.

### **Bidders Obligation**

At the time of the opening of the bids it will be presumed that each bidder will have inspected the site and will have read and be thoroughly familiar with the plans and Contract Documents, including all addenda. Failure or omission of any Bidder to receive and examine any form, instrument, or document will not in any way relieve the successful Bidder from any obligations in respect to his bid.

### **Bid Security Forfeited**

In case the Bidder to whom the Contract is awarded shall fail or neglect to execute the Contract and furnish satisfactory bonds within the time specified the Owner may determine that the Bidder has abandoned the Contract and the proposal shall be considered null and void and the surety accompanying the proposal shall be forfeited to and be retained by the said Owner as liquidated damages for such failure or neglect. After the execution of the Contract and after the acceptance of the Payment and Performance bonds by the Owner, the surety accompanying the proposal of the successful bidder shall be returned.

## **Definitions**

The terms used in this Contract shall have the following meaning: The Owner shall mean the City of Brewer, Maine; the Engineer shall mean the City Engineer or his duly authorized representative; Parks & Recreation Director shall mean the City Parks & Recreation Director, the Contractor shall mean the individual, firm or corporation to whom the Contract has been awarded or any of his subcontractors working for or under his direction.

## **Responsibility of Bidder**

Each Bidder must inform himself fully of the conditions relating to the proposed construction. Failure to do so will not relieve the successful Bidder of his obligation to furnish all materials necessary to carry out the provisions of the Contract Document and to complete the contemplated work for the consideration set forth in his bid.

## **Performance Bond and Labor and Material Bond**

Simultaneously with his delivery of the Contract to the Owner, the successful Bidder must deliver to the Owner three copies each of an executed performance Bond and Labor and Material Bond, both in the amount of 100% of the estimated total bid price or irrevocable Letter of Credit or other security acceptable to the City as security for the faithful performance of his Contract and for the payment to all persons performing labor or furnishing materials in connections therewith as detailed in Section 22 of the General Conditions.

## **Work Under City Parks & Recreation Director**

All work in connection with this project shall be under the administrative overview of the City Parks & Recreation Director as detailed in Section 27 of the General Conditions and all decisions by him pertaining to the new construction shall be final and binding. It shall be the responsibility of the Contractor to establish and maintain such layout as may be required to properly complete the work.

No interpretation of the meaning of the plans, specifications or other Contract Documents will be made to any Bidder orally. Every request for such interpretation must be in writing addressed to the Parks & Recreation Director, 318 Wilson Street, Brewer, Maine 04412 and to be given consideration must be received at least three days prior to the date fixed for the opening of the bids. Any and all such interpretations and any supplemental instructions will be by written addenda to the specifications, which, if issued, will be mailed or emailed to all prospective bidders (at the respective addresses of the prospective bidders) not later than two days prior to the date fixed for the opening of the bids. Failure of any Bidder to receive any addenda or interpretation shall not relieve the Bidder of his obligation under the bid submitted. All addenda so issued shall become a part of the Contract Documents.

The Bidder is advised that (1) the construction terms and conditions set forth in the Contract Documents will be rigidly enforced, and (2) it is the intentions of the Owner to maintain full time inspection during the period of construction and only first quality materials and workmanship will be accepted.

The City of Brewer is a municipal corporation duly organized under the laws of the State of Maine and therefore is not required to file proof of exemption of the Maine Sales Tax.

### **Utility Location**

Contractor is to have the proper utility location service provide location of the existing utilities in the area of the project. The Contractor is advised that the City of Brewer is not a participating member in Dig-safe and will need to be contacted separately for sewer, water, and storm drain locations in the area of the project. Please note that a new form has been added to the City website that will contact all City Departments at one time. The form can be found page at <https://brewermaine.gov/dig-safe-notification/> .

### **Liquidated Damages**

For every day beyond the project completion date of June 27, 2025 that is required to complete the project, the Contractor will incur liquidated damages of **\$250** per day.

**Proposal**

Proposal of \_\_\_\_\_ (hereinafter called "Bidder"),  
organized and existing under the laws of the State of \_\_\_\_\_ doing business as  
(insert "a corporation", or "a partnership", or "an individual" as applicable).

To the City of Brewer, (hereinafter called "OWNER"). In compliance with your  
advertisement for Proposals, BIDDER hereby proposed to perform all work for the Doyle  
Field LED Facility Lighting Modernization Project in Brewer, Maine, in strict accordance  
with the Contract Documents, within the time set forth therein, and at the prices stated  
below.

By submission of this Proposal, each BIDDER certifies, and in the case of a joint  
PROPOSAL each party thereto certifies as to his own organization, that this  
PROPOSAL has been arrived at independently, without consultation, communication,  
or agreement as to any matter relating to this Proposal with any other Bidder or with  
a competitor.

BIDDER hereby agrees to commence work under this contract on or before a date to  
be specified in the Notice to Proceed.

BIDDER acknowledges receipt of the following addendum:

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**CITY OF BREWER**  
**Doyle Field LED Lighting Modernization**

1. Total Price City will pay \$ \_\_\_\_\_
2. Lighting System Manufacturer, Model, etc.: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Control System Name, Model, etc.: \_\_\_\_\_  
\_\_\_\_\_
4. Installation Contractor: \_\_\_\_\_
5. Installation Completion Date: \_\_\_\_\_
6. Payment Terms: \_\_\_\_\_
7. Warranties: \_\_\_\_\_
8. References:
  - 1:) Name: \_\_\_\_\_  
Organization: \_\_\_\_\_  
Contact Phone: \_\_\_\_\_  
Contact email: \_\_\_\_\_  
Project: \_\_\_\_\_
  - 2:) Name: \_\_\_\_\_  
Organization: \_\_\_\_\_  
Contact Phone: \_\_\_\_\_  
Contact email: \_\_\_\_\_  
Project: \_\_\_\_\_
  - 3:) Name: \_\_\_\_\_  
Organization: \_\_\_\_\_  
Contact Phone: \_\_\_\_\_  
Contact email: \_\_\_\_\_  
Project: \_\_\_\_\_

We understand that any estimated quantities indicated in the above schedule are made available by the CITY OF BREWER, for our information only and that we have made our own determinations and have bid accordingly.

We have examined the specifications and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor; hereby propose to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents, within the time set forth therein, and at the prices stated.

This proposal includes the cost of the Performance and Payment Bond or Irrevocable Letter of Credit or some other security acceptable to the City, each in the amount of 100 percent of the contract amount.

The undersigned also agrees as follows:

**FIRST:** To do any extra work, not covered by the above schedule of prices, which may be ordered by the Parks & Recreation Director, and to accept as full compensation therefore such prices as may be agreed upon in writing by the Parks & Recreation Department Director and the Contractor.

**SECOND:** To begin the work within seven (7) calendar days after signing of the Contract unless the City of Brewer shall authorize or direct a further delay, and will progress therewith to its completion before June 27, 2025.

Should additional work be added to this contract the contract time will be extended proportionately.

Accompanying this Proposal is a certified check or Bid Bond in the amount of five percent (5%) of the bid (based on the lowest estimated quantity of each item) which shall become the property of the City of Brewer, which may at any time without notice accept the Proposal, whether any other proposal has previously been accepted or not, provided, however, that the City of Brewer shall accept, in writing, one of the proposals made, or reject all proposals made, within sixty (60) days from the date of opening of the proposal.

The undersigned, as Bidder, declares that the only persons or parties interested in this Proposal are those named herein, and that this Proposal is made without collusion with any other person, firm or corporation.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

IF AN INDIVIDUAL, SIGN HERE:

Signature of BIDDER \_\_\_\_\_

Address \_\_\_\_\_

IF A FIRM OR PARTNERSHIP, SIGN HERE:

Signature of BIDDER \_\_\_\_\_

Name of Firm or Partnership \_\_\_\_\_

Business Address \_\_\_\_\_

IF A CORPORATION, SIGN HERE:

Name of BIDDER

Authorized Signature/Title

\_\_\_\_\_

Corporate seal must be  
affixed in this  
space.

Business Address \_\_\_\_\_

\_\_\_\_\_

Incorporated under the Laws of the State of \_\_\_\_\_

Officers of \_\_\_\_\_ President

The \_\_\_\_\_ Secretary

\_\_\_\_\_ ss:

Before me, personally appeared \_\_\_\_\_ and acknowledged that the signature to the preceding bid is his signature in his official capacity.

\_\_\_\_\_  
Date

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



**ALL CORPORATIONS MUST COMPLETE THIS FORM  
AND SUBMIT WITH THE BID PROPOSAL**

(Insert copy of that part of the records of the corporation wherein authority was given to the officer of the corporation to sign this bid on behalf of the corporation.)

Date:

The above is a true copy of the records of the \_\_\_\_\_

\_\_\_\_\_ Corporation, which records are in my legal custody.

Official having Custody of Records

\_\_\_\_\_ ss:

Before me appeared \_\_\_\_\_ of the

\_\_\_\_\_ Corporation, and made oath that the

above statement is true.

Notary Public

## AGREEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by and between the City of Brewer, hereinafter called "OWNER" and \_\_\_\_\_ (an individual or a partnership or a corporation) hereinafter called "CONTRACTOR".

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

1. The Contractor will commence and complete Doyle Field Lighting Modernization Project as directed by the Parks & Recreation Director.
2. The Contractor will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the project described herein, except for items specifically identified as being furnished by the Owner.
3. The Contractor will commence the work required by the CONTRACT DOCUMENTS within seven (7) calendar days after the date of the NOTICE TO PROCEED and will complete the same before June 27, 2025, after which liquidated damages in the amount of \$250/day will be assessed unless the period for completion is extended otherwise by the CONTRACT.
4. The total extended line item cost of the Proposal will be used as the basis for evaluating bids, determining the amount of this Contract and for establishing the amount of the required Contract Bond, and the amount of this Contract so determined is \_\_\_\_\_ (\$).
5. The term "CONTRACT DOCUMENTS" means and includes the following:

- Notice to Contractors
- Information for BIDDERS
- Bid
- Agreement
- Payment Bond
- Performance Bond
- General Conditions
- Notice of Award
- Notice to Proceed

ADDENDA:

No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_

No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_

No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_

6. The OWNER will pay to the CONTRACTOR in the manner 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.

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

OWNER:  
CITY OF BREWER

By \_\_\_\_\_

Name \_\_\_\_\_  
(Print or Type)

(Seal)

ATTEST:

By \_\_\_\_\_

CONTRACTOR:

\_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_  
(Print or Type)

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

(Seal)

ATTEST:

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

*The City of Brewer is an equal opportunity employer and service provider.*

**PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS: that

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

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

\_\_\_\_\_, hereinafter called Principal,  
(Corporation, Partnership or Individual)

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

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

hereinafter call Surety, are held and firmly bound unto City of Brewer, 80 North Main Street, Brewer, Maine hereinafter called OWNER, in the penal sum of Dollars, \$( ) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

The CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of which is hereto attached and made a part hereof for the North Main Street Resurfacing and Drainage Improvements Project.

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

PROVIDED, FURTHER, the said Surety for value received hereby stipulates and agrees that no change, extension of time, alterations or addition to the terms of the contract or to the WORK to be performed thereunder of the SPECIFICATIONS

accompanying the same shall in any way effect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or the WORK or the SPECIFICATIONS.

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

WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ counterparts,  
(number)  
each one of which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST:

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

\_\_\_\_\_  
Principal

(SEAL)

\_\_\_\_\_  
Witness as to Principal

By: \_\_\_\_\_ (s)  
(Address)

Surety

ATTEST:

By: \_\_\_\_\_  
Attorney-in-fact

\_\_\_\_\_  
Witness as to Surety

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

NOTE: Date of BOND must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should Execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: that

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

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

a \_\_\_\_\_, hereinafter called Principal,

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

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

hereinafter call Surety, are hold and firmly bound unto City of Brewer, 80 North Main Street, Brewer, Maine, hereinafter called OWNER, in the penal sum of Dollars, (\$ ) in lawful money of the United States, for payment of which sum well and truly to be made, we bind ourselves, successors, and assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, a copy of which is hereto attached and made a part hereof for the North Main Street and State Street Resurfacing Project.

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

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

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

WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ Counterparts, each one of which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ .

ATTEST:

\_\_\_\_\_  
Principal

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

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

(SEAL)

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

Surety

ATTEST:

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

(SEAL)

\_\_\_\_\_  
Witness as to Surety

By: \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

NOTE: Date of BOND must not be prior to date of Contract. If CONTRACTOR is partnership, all partners should execute BOND.

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



**CERTIFICATION REGARDING LOBBYING**

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

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents of all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Organization: \_\_\_\_\_

Street address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

CERTIFIED BY:(type or print) \_\_\_\_\_

TITLE: \_\_\_\_\_

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

**Disclosure of Lobbying Activities**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

(See reverse for public burden disclosure)

**1. Type of Federal Action:**

- a. contract
- \_\_\_\_ b. grant
- c. cooperative agreement
- d. loan
- e. loan guarantee
- f. loan insurance

**2. Status of Federal Action:**

- a. bid/offer/application
- \_\_\_\_ b. initial award
- c. post-award

**3. Report Type:**

- a. initial filing
- \_\_\_\_ b. material change
- For material change only:**
- Year \_\_\_\_\_ quarter \_\_\_\_\_
- Date of last report \_\_\_\_\_

**4. Name and Address of Reporting Entity:**

\_\_\_\_ Prime \_\_\_\_ Subawardee

Tier \_\_\_\_\_, if Known:

Congressional District, if known:

**6. Federal Department/Agency:**

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

**10. a. Name and Address of Lobbying Registrant**

(if individual, last name, first name, MI):

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

**Federal Use Only**

**5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:**

Congressional District, if known:

**7. Federal Program Name/Description:**

CFDA Number, if applicable: \_\_\_\_\_

**9. Award Amount, if known:**

\$

**b. Individuals Performing Services (including address if different from No. 10a)**

(last name, first name, MI):

**Signature:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

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

**Telephone No.:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Authorized for Local Reproduction  
Standard Form - LLL (Rev. 7-97)**

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

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

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

2. Identify the status of the covered Federal action.

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

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

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

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

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

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

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

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

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

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number. According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and

Budget,  
Paperwork Reduction Project (0348-0046), Washington, DC 20503

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget,  
Paperwork Reduction Project (0348-0046), Washington, DC 20503

## **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, Regulations
11. Protection of Work, Property, Persons
12. Supervision by Contractor
13. Changes in Work
14. Changes in Contract Prices
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. Parks & Rec Director's Authority
28. Land and Rights-of-Way
29. Guaranty
30. Arbitration
31. Taxes

## **DEFINITIONS**

1.1 Wherever used in the CONTRACT DOCUMENTS, the following terms shall have the meanings indicated and shall be applicable to both the singular and plural thereof:

1.2 ADDENDA - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the CONTRACT DOCUMENTS, DRAWINGS and SPECIFICATIONS, by additions, deletions, clarifications, or corrections.

1.3 BID - The offer or proposal of the BIDDER submitted on the prescribed form setting forth the prices for the WORK to be performed.

1.4 BIDDER - Any person, firm, or corporation submitting a BID for the WORK.

1.5 BONDS - Bid, Performance, and Payment Bonds and other instruments of surety, furnished by the CONTRACTOR and the CONTRACTOR'S surety in accordance with the CONTRACT DOCUMENTS.

1.6 CHANGE ORDER - A written order to the CONTRACTOR authorizing an addition, deletion, or revision in the WORK within the general scope of the CONTRACT DOCUMENTS, or authorizing an adjustment in the CONTRACT PRICE or CONTRACT TIME.

1.7 CONTRACT DOCUMENTS - The contract, including Advertisement for BIDS, Information for BIDDERS, BID, BID BOND, Agreement, Payment BOND, Performance BOND, NOTICE OF AWARD, NOTICE TO PROCEED, CHANGE ORDER, DRAWINGS, SPECIFICATIONS, and ADDENDA.

1.8 CONTRACT PRICE - The total monies payable to the CONTRACTOR under the terms and conditions of the CONTRACT DOCUMENTS.

1.9 CONTRACT TIME - The number of calendar days stated in the CONTRACT DOCUMENTS for the completion of the WORK.

1.10 CONTRACTOR - The person, firm, or corporation with whom the OWNER has executed the Agreement.

1.11 DRAWINGS - The parts 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 PARKS & RECREATION DIRECTOR.

1.12 PARKS & RECREATION DIRECTOR - The person, firm, or corporation named as such in the CONTRACT DOCUMENTS.

1.13 FIELD ORDER - A written order effecting a change in the WORK not involving an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, issued by the PARKS & RECREATION DIRECTOR to the CONTRACTOR during construction.

1.14 NOTICE OF AWARD - The written notice of the acceptance of the BID from the OWNER to the successful BIDDER.

1.15 NOTICE TO PROCEED - Written communication issued by the OWNER to the CONTRACTOR authorizing him/her to proceed with the WORK and establishing the date for commencement of the WORK.

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

1.17 PROJECT - The undertaking to be performed as provided in the CONTRACT DOCUMENTS.

1.18 RESIDENT PROJECT REPRESENTATIVE-The authorized represent of the OWNER who is assigned to the PROJECT site or any part thereof.

1.19 SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures schedules

and other data which are prepared by the CONTRACTOR, a SUBCONTRACTOR, manufacturer, SUPPLIER or distributor, which illustrate how specific portions of the WORK shall be fabricated or installed.

1.20 SPECIFICATIONS - A part of the CONTRACT DOCUMENTS consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.

1.21 SUBCONTRACTOR - An individual, firm, or corporation having a direct contract with CONTRACTOR or with any other SUBCONTRACTOR for the performance of a part of the WORK at the site.

1.22 SUBSTANTIAL COMPLETION - That date certified by the PARKS & RECREATION DIRECTOR when the construction of the PROJECT or a specified part thereof is sufficiently completed, in accordance with the CONTRACT DOCUMENTS, so that the PROJECT or specified part can be utilized for the purposes for which it is intended.

1.23 SUPPLEMENTAL GENERAL CONDITIONS - Modifications to General Conditions required by a Federal agency for participation in the PROJECT and approved by the agency in writing prior to inclusion in the CONTRACT DOCUMENTS, or such requirements that may be imposed by applicable state laws.

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

1.25 WORK - All labor necessary to produce the construction required by the CONTRACT DOCUMENTS, and all materials and equipment incorporated or to be incorporated in the PROJECT.

1.26 WRITTEN NOTICE - Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail the said party at their last given address, or delivered in person to said party or their 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 PARKS & RECREATION DIRECTOR, as necessary to carry out the WORK required by the 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 OWNER such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data where applicable as are required by the CONTRACT DOCUMENTS for the WORK to be performed.

3.2 Prior to the first partial payment estimate the CONTRACTOR shall submit construction progress schedules showing the order in which the CONTRACTOR proposes to carry on the WORK, including dates at which the various parts of the WORK will be started, 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 will be earned during the course of the work.

### **4. DRAWINGS AND SPECIFICATION**

4.1 The intent of the DRAWINGS and SPECIFICATIONS is that the CONTRACTOR shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the WORK in accordance with the CONTRACT DOCUMENTS and all incidental work necessary to complete the PROJECT in an acceptable manner, ready for use, occupancy or operation by the OWNER.

4.2 In case of conflict between the DRAWINGS and SPECIFICATIONS, the SPECIFICATIONS shall govern. Figure dimensions on DRAWINGS shall govern over general DRAWINGS.

Any discrepancies found between the DRAWINGS and SPECIFICATIONS site conditions or any inconsistencies or ambiguities in the DRAWINGS or SPECIFICATIONS shall be immediately reported to the PARKS & RECREATION DIRECTOR, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. WORK done by the CONTRACTOR after discovery of such discrepancies, inconsistencies or ambiguities shall be done at the CONTRACTOR'S risk.

### **5. SHOP DRAWINGS**



5.1 The CONTRACTOR shall provide SHOP DRAWINGS as may be necessary for the prosecution of the WORK as required by the CONTRACT DOCUMENTS. The PARKS & RECREATION DIRECTOR shall promptly review all SHOP DRAWINGS. The PARKS & RECREATION DIRECTOR'S approval of any SHOP DRAWING shall not release the CONTRACTOR from responsibility for deviations from 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 PARKS & RECREATION DIRECTOR'S review, SHOP DRAWINGS shall bear the CONTRACTOR'S certification that he has reviewed, checked and approved the SHOP DRAWINGS and that they are in conformance with the requirements of the CONTRACT DOCUMENTS.

5.3 Portions of the WORK requiring a SHOP DRAWING or sample submission shall not begin until the SHOP DRAWING or submission has been approved by the PARKS & RECREATION DIRECTOR. 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 PARKS & RECREATION DIRECTOR.

## **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 facilities 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 PARKS & RECREATION DIRECTOR.

6.5 Materials, supplies or equipment to be incorporated into the WORK shall not be purchased by the CONTRACTOR or the SUBCONTRACTOR subject to a chattel mortgage or under a conditional sale contract or 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, as required and defined in the CONTRACT DOCUMENTS or as directed by the City PARKS & RECREATION DIRECTOR.

7.2 The OWNER shall provide all inspection and testing services not required by the CONTRACT DOCUMENTS.

7.3 The CONTRACTOR shall provide at the CONTRACTOR'S expense the testing and inspection services required by the CONTRACT DOCUMENTS.

7.4 If the CONTRACT DOCUMENTS, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any WORK to specifically be inspected, tested, or approved by someone other than the CONTRACTOR, the CONTRACTOR will give the PARKS & RECREATION DIRECTOR timely notice of readiness.

The CONTRACTOR will then furnish the PARKS & RECREATION DIRECTOR the required certificates of inspection, testing or approval.

7.5 Inspections, tests, or approvals by the PARKS & RECREATION DIRECTOR or others shall not relieve the CONTRACTOR from the obligations to perform the WORK in accordance with the requirements of the CONTRACT DOCUMENTS.

7.6 The PARKS & RECREATION DIRECTOR and the PARKS & RECREATION DIRECTOR'S representatives will at all times have to access 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 or personnel, invoices of materials and other relevant data and records. The CONTRACTOR will provide proper facilities for such access and observation of the WORK and also for any inspection or testing thereof.

7.7 If any WORK is covered contrary to the written instructions of the PARKS & RECREATION DIRECTOR it must, if requested by the PARKS & RECREATION DIRECTOR, be uncovered for the PARKS & RECREATION DIRECTOR'S observation and replaced at the CONTRACTOR'S expense.

7.8 If the PARKS & RECREATION DIRECTOR considers it necessary or advisable that covered WORK be inspected or tested by others, the CONTRACTOR, at the PARKS & RECREATION DIRECTOR'S request, will uncover, expose or otherwise make available for observation, inspection or testing as the PARKS & RECREATION DIRECTOR may require, that portion of the WORK, in question, furnishing all necessary

labor, materials, tools, and equipment. If it is found that such WORK is defective, the CONTRACTOR will bear all the expenses of such WORK is defective, the CONTRACTOR will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, if, however, such WORK is not found to be defective, the CONTRACTOR will be allowed an increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate CHANGE ORDER shall be issued.

## **8. SUBSTITUTIONS**

8.1 Whenever a material, article, or piece of equipment is identified on the DRAWING or SPECIFICATIONS by reference to brand name or catalogue numbers, 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 PARKS & RECREATION DIRECTOR, such material, article, or piece of equipment is of equal substance and function to that specified, the PARKS & RECREATION DIRECTOR 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, and shall defend all suits or claims for infringement of any patent rights and save the OWNER harmless from loss on account thereof, except that the OWNER shall be responsible for any such loss when a particular process, design, or product of a particular manufacturer or manufacturers is specified, however, if the CONTRACTOR has reason to believe that the design, process or product specified is an infringement of a patent, the CONTRACTOR shall be responsible for such loss unless the CONTRACTOR promptly gives such information to the PARKS & RECREATION DIRECTOR.

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

10.1 The OWNER shall furnish all boundary surveys and establish all base lines for

locating the principal component parts of the WORK together with a suitable number of bench marks adjacent to the WORK as shown in the CONTRACT DOCUMENTS. From the information provided by the OWNER, unless otherwise specified in the CONTRACT DOCUMENTS, the CONTRACTOR shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pipe 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, shall be charged with the resulting expense and shall be responsible for any mistake that may be caused by their unnecessary loss or disturbance.

10.3 Permits and licenses of a temporary nature necessary for the prosecution of the WORK shall be secured and paid for by the CONTRACTOR unless otherwise stated in the SUPPLEMENTAL GENERAL CONDITIONS. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the OWNER, unless otherwise specified. The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the WORK as drawn and specified. If the CONTRACTOR observes that the CONTRACT DOCUMENTS are at variance therewith, the CONTRACTOR shall promptly notify the PARKS & RECREATION DIRECTOR 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, will provide the 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 who acts for any of them to be liable, except damage or loss attributable to the fault of the CONTRACTOR.

DOCUMENTS or to the acts or omissions of the OWNER, of the PARKS & RECREATION DIRECTOR 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 instructions or authorization from the PARKS & RECREATION DIRECTOR or OWNER, shall act to prevent threatened damage, injury or loss.

The CONTRACTOR will give the PARKS & RECREATION DIRECTOR prompt WRITTEN NOTICE of any significant changes in the WORK or deviations from CONTRACT DOCUMENTS caused thereby, and a CHANGE ORDER shall thereupon be issued covering the changes and deviations involved.

## **12. SUPERVISION BY CONTRACTOR**

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

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

13.1 The OWNER 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 PARKS & RECREATION DIRECTOR, 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 PARKS & RECREATION DIRECTOR unless the CONTRACTOR believes that such FIELD ORDER entitles the CONTRACTOR to a change in CONTRACT PRICE or TIME, or both, in which event the CONTRACTOR shall give the PARKS & RECREATION DIRECTOR WRITTEN NOTICE thereof within seven (7) days after the receipt of the ordered change. Thereafter the CONTRACTOR shall document the basis for the change in CONTRACT PRICE or TIME WITHIN thirty (30) days. The CONTRACTOR shall not

execute such changes pending the receipt of an executed CHANGE ORDER or further instruction of the OWNER.

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

14.1 The CONTRACT PRICE may be changed only by a CHANGE ORDER. The value of any WORK covered by a CHANGE ORDER or of any claim for increase or decrease in the CONTRACT PRICE shall be determined by one or more of the following methods in the order of precedence listed below:

- a. Unit prices.
- b. An agreed lump sum.

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

15.1 The date of beginning and the time for completion of the WORK are essential conditions of the CONTRACT DOCUMENTS and the WORK embraced shall be commenced on a date specified in the NOTICE TO PROCEED.

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

15.3 If the CONTRACTOR shall fail to complete the WORK within the CONTRACT TIME, or extension of time granted by the OWNER, then the CONTRACTOR will pay to the OWNER the amount for liquidated damages as specified in the BID for each calendar day that the CONTRACTOR shall be in default after the time stipulated in the CONTRACT DOCUMENTS.

15.4 The CONTRACTOR shall not be charged with liquidated damages or any excess cost when the delay in completion of the WORK is due to the following and the CONTRACTOR has promptly given WRITTEN NOTICE of such delay to the OWNER or PARKS & RECREATION DIRECTOR.

15.4.1 To any preference, priority or allocation order duly issued by the OWNER.

15.4.2 To unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including but not restricted to, acts of God, or of the public enemy, acts of the OWNER, acts of another CONTRACTOR in the performance of a contract with the OWNER, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather; and

15.4.3 To any delays of SUBCONTRACTORS occasioned by any of the causes specified in paragraphs 15.4.1 and 15.4.2 of this article.

15.5 If in the opinion of the PARKS & RECREATION DIRECTOR the progress of the WORK is such that the completion date of the CONTRACT cannot be met, for causes other than those provided for in Article 15, he may request the CONTRACTOR to provide additional men and equipment, additional hours, or both. The cost of all shall be borne by the CONTRACTOR.

## **16. CORRECTION OF WORK**

16.1 The CONTRACTOR shall promptly remove from the premises all WORK rejected by the PARKS & RECREATION DIRECTOR for failure to comply with the CONTRACT DOCUMENTS, whether incorporated in the construction or not, and the CONTRACTOR shall promptly replace and re-execute the WORK in accordance with the CONTRACT DOCUMENTS and without expense to the OWNER and shall bear the expense of making good all WORK of other CONTRACTORS destroyed or damaged by such removal or replacement.

16.2 All removal and replacement WORK shall be done at the CONTRACTOR'S expense. If the CONTRACTOR does not take action to remove such rejected WORK within ten (10) days after receipt of WRITTEN NOTICE, the OWNER may remove such WORK and store the materials at the expense of the CONTRACTOR.

## **17. SUBSURFACE CONDITIONS**

17.1 The CONTRACTOR shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the OWNER by WRITTEN NOTICE of:

17.1.1 Subsurface or latent physical conditions at the site differing materially from those indicated in the CONTRACT DOCUMENTS; or

17.1.2 Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in WORK of the character provided for in the CONTRACT DOCUMENTS.

17.2 The OWNER shall promptly investigate the conditions, and if it is found that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the WORK, an equitable adjustment shall be made and the CONTRACT DOCUMENTS shall be modified by a CHANGE ORDER. Any claim of the CONTRACTOR for adjustment hereunder shall not be allowed unless the required WRITTEN NOTICE has been given; provided that the OWNER may, if the OWNER determines the facts so justify, consider and adjust any such claims

asserted before the date of final payment.

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

18.1 The OWNER may suspend the WORK or any portion thereof for a period of not more than ninety days or such further time as agreed upon by the CONTRACTOR, by WRITTEN NOTICE to the CONTRACTOR and the PARKS & RECREATION DIRECTOR which shall fix the date on which WORK shall be resumed. The CONTRACTOR will resume the WORK on the date so fixed. The CONTRACTOR will be allowed an increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to any suspension.

18.2 If the CONTRACTOR is adjudged a bankrupt or insolvent, or makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the CONTRACTOR or for any of its property, or if CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or repeatedly fails to make prompt payments to SUBCONTRACTORS or for labor, materials or equipment or disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the WORK or disregards the authority of the PARKS & RECREATION DIRECTOR, or otherwise violates any provision of the CONTRACT DOCUMENTS, then the OWNER may without prejudice to any other right or remedy and after giving the CONTRACTOR and its 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 OWNER may deem expedient. In such case the CONTRACTOR shall not be entitled to receive any further payment until the WORK is finished. If the unpaid balance of the CONTRACT PRICE exceeds the direct and indirect costs of completing the PROJECT, including compensation for additional professional services, such excess SHALL BE PAID TO THE CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR will pay the difference to the OWNER. Such costs incurred by the OWNER will be determined by the PARKS & RECREATION DIRECTOR and incorporated in a CHANGE ORDER.

18.3 Where the CONTRACTOR'S services have been so terminated by the OWNER, said termination shall not affect any right of the OWNER against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of monies by the OWNER due the CONTRACTOR will not release the CONTRACTOR from compliance with the CONTRACT DOCUMENTS.

18.4 After ten (10) days from delivery of a WRITTEN NOTICE to the CONTRACTOR and the PARKS & RECREATION DIRECTOR, the OWNER may, without cause and



without prejudice to any other right or remedy, elect to abandon the PROJECT and terminate the CONTRACT. In such case the CONTRACTOR shall be paid for all WORK executed and any expense sustained plus reasonable profit.

18.5 If, through no act or fault of the CONTRACTOR, the WORK is suspended for period of more than ninety (90) days by the OWNER or under an order of court or other public authority, or the PARKS & RECREATION DIRECTOR fails to act on any request for payment within thirty (30) days after it is submitted, or the OWNER fails to pay the CONTRACTOR substantially the sum approved by the PARKS & RECREATION DIRECTOR 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 OWNER and the PARKS & RECREATION DIRECTOR terminate the CONTRACT and recover from the OWNER payment for all WORK executed and all expenses sustained. In addition and in lieu of terminating the CONTRACT, if the PARKS & RECREATION DIRECTOR has failed to act on a request for payment or if the OWNER has failed to make any payment as aforesaid, the CONTRACTOR may upon ten (10) days written notice to the OWNER and the PARKS & RECREATION DIRECTOR stop the WORK until paid all amounts then due, in which event and upon resumption of the WORK CHANGE ORDERS shall be issued for adjusting the CONTRACT PRICE or extending the CONTRACT TIME or both to compensate for the costs and delays attributable to the stoppage of the WORK.

18.6 If the performance of all or any portion of the WORK is suspended, delayed, or interrupted as a result of a failure of the OWNER or PARKS & RECREATION DIRECTOR 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 OWNER or PARKS & RECREATION DIRECTOR.

## **19. PAYMENT TO CONTRACTOR**

19.1 At least ten (10) days before each progress payment falls due (one a month), the CONTRACTOR will submit to the PARKS & RECREATION DIRECTOR a partial payment estimate filled out and signed by the CONTRACTOR covering the WORK performed during the period covered by the partial payment estimate and supported by such data as the PARKS & RECREATION DIRECTOR 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 OWNER, as will establish the OWNER'S title to the material and equipment and protect the OWNER'S interest therein, including applicable insurance. The PARKS & RECREATION DIRECTOR will, within ten (10) days after receipt of each partial payment estimate, either indicate in writing approval of payment, and present the partial payment estimate to the

OWNER, or return the partial payment estimate to the CONTRACTOR indicating in writing the reason for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The OWNER will, within ten (10) days of presentation of an approved partial payment estimate, pay the CONTRACTOR a progress payment on the basis of the approved partial payment estimate less the retainage. The retainage shall be an amount equal to 10% of said estimate until 50% of the work has been completed. At 50% completion, further partial payment shall be made in full to the CONTRACTOR and no additional amounts may be retained unless the PARKS & RECREATION DIRECTOR certifies that the job is not proceeding satisfactorily, but amounts previously retained shall not be paid to the CONTRACTOR. At 50% completion or any time thereafter when the progress of the WORK is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than 10% of the value of the work completed. Upon substantial completion of the work, any amount retained may be paid to the CONTRACTOR. When the WORK has been substantially completed except for WORK which cannot be completed because of weather conditions, lack of materials or other reasons which in the judgment of the OWNER are valid reasons for noncompletion, the OWNER may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the WORK still to be completed.

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

19.3 Prior SUBSTANTIAL COMPLETION, the OWNER, with the approval of the PARKS & RECREATION DIRECTOR and with the concurrence of the CONTRACTOR, may use any completed or substantially completed portions of the WORK. Such use shall not constitute an acceptance of such portions of the WORK.

19.4 The OWNER shall have the right to enter the premises for the purpose of doing work not covered by the CONTRACT DOCUMENTS. This provision shall not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the WORK, or the restoration of any damaged WORK except such as may be caused by agents or employees of the OWNER.

19.5 Upon completion and acceptance of the WORK, the PARKS & RECREATION DIRECTOR shall issue a certificate attached to the final payment request that the WORK has been accepted under the conditions of the CONTRACT DOCUMENTS. The entire balance found to be due the CONTRACTOR, including the retained percentages, but except such sums as may be lawfully retained by the OWNER, shall be paid to the CONTRACTOR within thirty (30) days of completion and acceptance of the WORK.

19.6 The CONTRACTOR will indemnify and save the OWNER or OWNER'S agents harmless from all claims growing out of the lawful demand of SUBCONTRACTORS,

laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the WORK. The CONTRACTOR shall, at the OWNER'S request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the CONTRACTOR fails to do so the OWNER, may, after having notified the CONTRACTOR, either pay unpaid bills or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully 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 OWNER to either the CONTRACTOR, the CONTRACTOR'S surety, or any third party. In paying any unpaid bills of the CONTRACTOR, any payment so made by the OWNER, shall be considered as a payment made under the CONTRACT DOCUMENTS by the OWNER to the CONTRACTOR and the OWNER shall not be liable to the CONTRACTOR for any such payments made in good faith.

19.7 If the OWNER fails to make payment thirty (30) days after approval by the PARKS & RECREATION DIRECTOR, in addition to other remedies available to the CONTRACTOR, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until the payment is received by the CONTRACTOR.

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

20.1 The acceptance by the CONTRACTOR of final payment shall be and shall operate as a release to the OWNER of all claims and all liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with this WORK and for every act and neglect of the OWNER and others relating or arising out of this WORK. Any payment, however, final or otherwise, shall not release the CONTRACTOR or its sureties from any obligations under the CONTRACT DOCUMENTS or the Performance and Payment BONDS/Irrevocable Letter of Credit or other sureties held by the City.

## **21. INSURANCE**

21.1 The CONTRACTOR shall purchase and maintain such insurance as will protect it 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, 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 Claims under workmen's compensation, disability benefit and other similar employee benefit acts;

21.1.2 Claims for damages because of bodily injury, occupation sickness or disease, or death of employees;

21.1.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than 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 employment of such person by the CONTRACTOR, or (2) by any person; and

21.1.5 Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom.

21.2 Certificates of Insurance acceptable to the OWNER shall be filed with the OWNER prior to commencement of the WORK. These Certificates shall contain a provision that coverages afforded under the policies will not be cancelled unless at least fifteen (15) days prior WRITTEN NOTICE has been given to the OWNER.

21.3 The CONTRACTOR shall procure and maintain, at the CONTRACTOR'S own expense, during the CONTRACT TIME, Liability insurance as hereinafter specified:

21.3.1 CONTRACTOR'S General Public Liability and Property Damage Insurance including vehicle coverage issued to the CONTRACTOR and protecting the CONTRACTOR from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the CONTRACT DOCUMENTS, whether such operations be by the CONTRACTOR or by any SUBCONTRACTOR employed by the CONTRACTOR or anyone directly or indirectly employed by the CONTRACTOR or by a SUBCONTRACTOR employed by the CONTRACTOR. Insurance shall be written with a limit of liability of not less than \$1,000,000 for all damages arising out of bodily injury including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$500,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$500,000 aggregate for any such damage sustained by two or more persons in any one accident.

21.3.2 The CONTRACTOR shall acquire and maintain, if applicable, Fire and Extended Coverage Insurance upon the PROJECT to the full insurable value thereof for the benefit of the OWNER, the CONTRACTOR, and SUBCONTRACTORS as their interest may appear. This provision shall in no way release the CONTRACTOR or CONTRACTOR'S surety from obligations under the CONTRACT DOCUMENTS to fully

complete the PROJECT.

21.4 The CONTRACTOR shall procure and maintain, at 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, Workmen's Compensation Insurance, including occupational disease provisions, for all of the CONTRACTOR'S employees at the site of the PROJECT and in case any WORK is sublet, the CONTRACTOR shall require such SUBCONTRACTOR similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. In case any class of employees engaged in hazardous work under this contract at the site of the PROJECT is not protected under Workmen's Compensation statute, the CONTRACTOR shall provide, and shall cause each SUBCONTRACTOR to provide, adequate and suitable insurance for the protection of items employees not otherwise protected.

21.5 The CONTRACTOR shall secure, if applicable, "All Risk" type Builder's Risk Insurance for WORK to be performed. Unless specifically authorized by the OWNER, the amount of such insurance shall not be less than the CONTRACT PRICE totaled in the BID. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft, and smoke during the CONTRACT TIME, and until the WORK is accepted by the OWNER. The policy shall name as the insured the CONTRACTOR, and the OWNER.

## **22. CONTRACT SECURITY**

22.1 The CONTRACTOR shall within ten (10) days after the receipt of the NOTICE OF AWARD furnish the OWNER with a Performance BOND and a Payment BOND/Irrevocable Letter of Credit or other securities acceptable to the City 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/Irrevocable Letters of Credit 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 OWNER to do so, substitute an acceptable BOND (or BONDS)/Irrevocable Letter of Credit or other security acceptable to the City, such form and sum and signed by such

other surety or sureties as may be satisfactory to the OWNER. The premiums on such BOND shall be paid by the CONTRACTOR. No further payment shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable BOND to the OWNER.

## **23. ASSIGNMENTS**

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

## **24. INDEMNIFICATION**

24.1 The CONTRACTOR will indemnify and hold harmless the OWNER and the PARKS & RECREATION DIRECTOR and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the WORK, provided that any such claims, 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, and SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

24.2 In any and all claims against the OWNER or the PARKS & RECREATION DIRECTOR, 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 maybe 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 benefits acts or other employee benefits acts.

24.3 The obligation of the CONTRACTOR under this paragraph shall not extend to the liability of the PARKS & RECREATION DIRECTOR, its agents or employees arising out of the preparation or approval of maps, DRAWINGS, opinions, reports, surveys, CHANGE ORDER, designs or SPECIFICATIONS.

## **25. SEPARATE CONTRACTS**

25.1 The OWNER reserves the right to let other contracts in connection with this PROJECT. The CONTRACTOR shall afford other CONTRACTORS reasonable opportunity for the introduction and storage of their materials and the execution of their WORK, and shall properly connect and coordinate the 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 PARKS & RECREATION DIRECTOR any defects in such WORK that render it unsuitable for such proper execution and results.

25.2 The OWNER may perform additional WORK related to the PROJECT or the OWNER may let other contracts containing provisions similar to these. The CONTRACTOR will afford the other CONTRACTORS who are parties to such Contracts (or the OWNER, if the OWNER is performing the additional WORK) reasonable opportunity for the introduction and storage of materials and equipment and the execution of WORK, and shall properly connect and coordinate the WORK with theirs.

25.3 If the performance of additional WORK by other CONTRACTORS or the OWNER is not noted in the CONTRACT DOCUMENTS prior to the execution of the CONTRACT, written notice thereof shall be given to the CONTRACTOR prior to starting any such additional WORK. If the CONTRACTOR believes that the performance of such additional WORK by the OWNER or others involves it in additional expense or entitles it to an extension of the CONTRACT TIME, the CONTRACTOR may make a claim thereof as provided in Sections 14 and 15.

## **26. SUBCONTRACTING**

26.1 The CONTRACTOR may utilize the services of specialty SUBCONTRACTS on those parts of the WORK which, under normal contracting practices, are performed by specialty SUBCONTRACTORS.

26.2 The CONTRACTOR shall not award WORK to SUBCONTRACTOR(s), in excess of fifty (50%) percent of the CONTRACT PRICE, without prior written approval of the OWNER.

26.3 The CONTRACTOR shall be fully responsible to the OWNER for the acts and omissions of its 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 OWNER may exercise over the CONTRACTOR under any provision of the CONTRACT DOCUMENTS.

26.5 Nothing contained in this CONTRACT shall create any contractual relationship between any SUBCONTRACTOR and the OWNER. (Revised 2-16-83, PN 869)

## **27. PARKS & RECREATION DIRECTOR'S AUTHORITY**

27.1 The PARKS & RECREATION DIRECTOR shall act as the OWNER'S representative during the construction period, shall decide questions which may arise as to quality and acceptability of materials furnished and WORK performed, and shall interpret the intent of the CONTRACT DOCUMENTS in a fair and unbiased manner. The PARKS & RECREATION DIRECTOR 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 PARKS & RECREATION DIRECTOR will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.

27.4 The PARKS & RECREATION DIRECTOR shall promptly make decisions relative to interpretation of the CONTRACT DOCUMENTS

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

28.1 Prior to issuance of NOTICE TO PROCEED, the OWNER 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 OWNER 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 its own expense and without liability to the OWNER any additional land and access thereto that the CONTRACTOR may desire for temporary construction facilities, or for storage of materials.

## **29. GUARANTEE**

29.1 The CONTRACTOR shall guarantee all materials and equipment furnished and WORK performed for a period of one (1) year from the date of SUBSTANTIAL COMPLETION. The CONTRACTOR warrants and guarantees for a period of one (1) year from the date of SUBSTANTIAL COMPLETION of the system that the completed system is free from all defects due to faulty materials or workmanship and the CONTRACTOR shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting



from such defects. The OWNER will give notice of observed defects with reasonable promptness. In the event that the CONTRACTOR should fail to make such repairs, adjustments, or other WORK that may be made necessary by such defects, the OWNER may do so and charge the CONTRACTOR the cost thereby incurred. The Performance BOND shall remain in full force and effect through the guarantee period.

### **30. ARBITRATION BY MUTUAL AGREEMENT** (Revised 2-16-83, PN 869)

30.1 All claims, disputes, and other matters in question arising out of, or relating to, the CONTRACT DOCUMENTS or the breach thereof, except for claims which have been waived by making an acceptance of final payment as provided by Section 20, may be decided by arbitration if the parties mutually agree. Any agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof. (Revised 2-16-83, PN 869.)

30.2 Notice of the request for arbitration shall be filed in writing with the other party to the CONTRACT DOCUMENTS and a copy shall be filed with the PARKS & RECREATION DIRECTOR. Request for arbitration shall in no event be made on any claim, dispute, or other matter in question which would be barred by the applicable statute of limitations. (Revised 2-16-83, PN 869.)

30.3 The CONTRACTOR will carry on the WORK and maintain the progress schedule during any arbitration proceedings, unless otherwise mutually agreed in writing.

### **31. TAXES**

31.1 The CONTRACTOR will pay all sales, consumer, use, and other similar taxes required by the laws of the place where the WORK is performed.

**NOTICE OF AWARD**

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

PROJECT DESCRIPTION: Doyle Field LED Lighting Facility Modernization Project

The OWNER had considered the BID submitted by you for the above described WORK in response to its Advertisement for Bids date \_\_\_\_\_ and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \$ \_\_\_\_\_.

You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR'S Performance BOND, Payment BOND or irrevocable Letter of Credit or other security acceptable to the City and certificates of insurance within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said BONDS or acceptable sureties within ten (10) days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_24\_.

CITY OF BREWER

By \_\_\_\_\_

Title \_\_\_\_\_

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF AWARD is hereby acknowledged by \_\_\_\_\_

\_\_\_\_\_ This, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By \_\_\_\_\_

Title \_\_\_\_\_

**NOTICE TO PROCEED**

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

\_\_\_\_\_ Project: Doyle Field LED Lighting  
Facility Modernization Project  
\_\_\_\_\_

You are hereby notified to commence WORK in accordance with the Agreement dated \_\_\_\_\_, 2024, on or before \_\_\_\_\_, 2024, and you are to complete the WORK by June 27, 2025.

CITY OF BREWER

By \_\_\_\_\_

Title Parks & Recreation Director

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged

by \_\_\_\_\_,

this the \_\_\_\_\_ day

of \_\_\_\_\_, 20\_\_.

By \_\_\_\_\_

Title \_\_\_\_\_