

**GENERAL ORMSBY MITCHEL PARK
PARK IMPROVEMENTS
“TENNIS COURT IMPROVEMENTS”**

**CONTRACT DOCUMENTS
&
SPECIFICATIONS**

for

CITY OF FORT MITCHELL

MAY 2022

LEGAL NOTICE

INVITATION TO BID

The City of Fort Mitchell, Kentucky (“City”) will accept sealed bids for **IMPROVEMENTS AT GENERAL ORMSBY MITCHELL PARK – TENNIS COURT IMPROVEMENT PROJECT**. The improvements are located at 262 Grandview Drive, Fort Mitchell, Kentucky 41017 and consists of the following work:

The resurfacing project shall include all work necessary to evaluate and prepare the tennis courts for asphalt surface course and acrylic top coating and shall include all necessary appurtenances to complete the project. Appropriate Tennis Court dimensional marking and striping is required and additional striping on each court to provide four (4) pickle ball courts per tennis court.

The bids will be received by the City Clerk, at the City’s offices located at 2355 Dixie Highway, Fort Mitchell, Kentucky, 41017 until **10:00 a.m.** (local time) on **May 26th, 2022**. The bids received will be opened and publicly read aloud at that time.

The Contract Documents may be examined at the following locations between 9:00 a.m. and 4:00 p.m. (local time), Monday through Friday: at Bayer-Becker Inc. 209 Grandview Drive, Fort Mitchell, Kentucky, 41017 or the City Municipal Offices at 2355 Dixie Highway, Fort Mitchell, Kentucky, 41017. Copies thereof may be obtained at the office of Bayer-Becker upon payment of a non-refundable fee of **\$40.00** for each set. An additional \$10 per set will be charged for mailing plans.

The City reserves the right to reject any and all bids, the right to waive any informality or irregularity in any bids and the right to negotiate with the bidder submitting the apparent lowest and best bid. It is the intent and requirements of the City that this project is completed no later than **September 30, 2022**.

Preference for Kentucky resident bidders will be applied in accordance with Kentucky law.

By order of Mayor Jude Hehman,

TABLE OF CONTENTS

NOTICE TO BIDDERS

INSTRUCTION TO BIDDERS

| | | |
|-----|---|------|
| 1. | General | IB-1 |
| 2. | Rejection of Proposals | IB-1 |
| 3. | Discrepancy (Bid Price) | IB-1 |
| 4. | Consent of Surety | IB-1 |
| 5. | Bid Guaranty | IB-1 |
| 6. | Extra Work | IB-2 |
| 7. | Second Hand and Salvaged Materials | IB-2 |
| 8. | Award of Contracts | IB-2 |
| 9. | Execution of Contract | IB-2 |
| 10. | Interpretation of Contract Documents | IB-2 |
| 11. | Qualifications of Bidders | IB-3 |
| 12. | Alternates | IB-3 |
| 13. | Modification and/or Withdrawal of Bids | IB-3 |
| 14. | Disqualified Bidders | IB-3 |
| 15. | Materials and Equipment Requirements in Proposal | IB-3 |
| 16. | "Or Equal" Clause | IB-3 |
| 17. | Specific Brands, Makes, or Manufacture | IB-3 |
| 18. | Payment for Materials Stored at Site of Project | IB-3 |
| 19. | Contract Security or Performance Bond | IB-4 |
| 20. | Contractor's Insurance Coverage & Cancellation Provisions | IB-4 |
| 21. | Indemnity-Comprehensive General Liability Insurance | IB-4 |
| 22. | Comprehensive Automotive Liability Coverage | IB-5 |
| 23. | Worker's Compensation and Employer's Liability Insurance | IB-5 |
| 24. | Builders Risk, Fire, and Extended Coverage | IB-5 |
| 25. | General Information Relating to Insurance | IB-5 |
| 26. | Insurance, Proof of Carriage | IB-6 |
| 27. | Payment of Employees | IB-6 |
| 28. | Wages & Hours | IB-6 |
| 29. | Construction Records & Reports | IB-6 |
| 30. | Contractor's Accounts | IB-7 |
| 31. | Commencement and Completion of Work | IB-7 |
| 32. | Completion Date | IB-7 |

TABLE OF CONTENTS

GENERAL CONDITIONS

| | | |
|-----|--|-------|
| 1. | Definitions and Meaning of Terms | GC-1 |
| 2. | Notice and Service Thereof on Contractors | GC-1 |
| 3. | Contractor | GC-1 |
| 4. | Subcontractors | GC-1 |
| 5. | Assignment and Subletting of Contract | GC-2 |
| 6. | Contract Documents | GC-2 |
| 7. | Failure to Complete Work on Time | GC-2 |
| 8. | Progress-Contract Time-Delays and Extensions | GC-2 |
| 9. | Prosecution of the Work | GC-2 |
| 10. | Character of Workmen and Equipment | GC-3 |
| 11. | Defective Materials and Workmanship | GC-3 |
| 12. | Guarantee | GC-3 |
| 13. | Engineer's Status | GC-3 |
| 14. | Lines & Grades | GC-4 |
| 15. | Observation and Inspection of Work | GC-4 |
| 16. | Plans & Specifications | GC-5 |
| 17. | Shop Drawings | GC-5 |
| 18. | Observation and Tests | GC-6 |
| 19. | Permits and Codes | GC-6 |
| 20. | Standard Specifications | GC-7 |
| 21. | Alteration in Plans and Specifications | GC-7 |
| 22. | Changes in the Work | GC-7 |
| 23. | Claims for Extra Cost | GC-8 |
| 24. | Determination of the Value of Extra (Additional) Work or Omitted Work | GC-8 |
| 25. | Lands for Work | GC-9 |
| 26. | Separate Contracts | GC-9 |
| 27. | Owner's Right to do Work | GC-9 |
| 28. | Suspension of Work | GC-9 |
| 29. | Right of Owner to Terminate Contract | GC-9 |
| 30. | Using Completed Portion of Work | GC-10 |
| 31. | Owner's Right to Withhold Payments | GC-10 |
| 32. | Deductions for Uncorrected Work | GC-10 |
| 33. | Accident Prevention | GC-10 |
| 34. | Sanitary Facilities | GC-11 |
| 35. | Protection of Work & Property | GC-11 |
| 36. | Responsibility for Damage, Claims, Etc. | GC-11 |
| 37. | Non-Rebate of Wages | GC-11 |
| 38. | Contractor's Final Release | GC-11 |
| 39. | Final Cleaning-Up | GC-12 |
| 40. | Bid Prices to Include Incidental Work | GC-12 |
| 41. | Termination By the Owner for Convenience | GC-12 |
| 42. | Contractor's Right to Terminate Contract | GC-12 |
| 43. | Utility Ownership | GC-12 |

TABLE OF CONTENTS (cont'd)

SPECIAL PROVISIONS

| | | |
|-----|--|------|
| 1. | Scope of Work | SP-1 |
| 2. | Project Signs-Existing Structures | SP-1 |
| 3. | Field Office | SP-1 |
| 4. | Work on Private Property | SP-1 |
| 5. | Interference with Traffic & Private & Public Property | SP-2 |
| 6. | Change in Scope of Work | SP-2 |
| 7. | Cooperation and Coordination with Utilities | SP-2 |
| 8. | Road Restoration | SP-3 |
| 9. | Submittals | SP-3 |
| 10. | Traffic Maintenance & Safety | SP-3 |
| 11. | Existing Road Ditches | SP-4 |
| 12. | Silt and Sedimentation Control | SP-4 |
| 13. | Site Restoration | SP-4 |
| 14. | Open Trenches | SP-4 |
| 15. | Pipe Certification | SP-4 |
| 16. | Burning and Blasting | SP-4 |
| 17. | Field Staking | SP-4 |
| 18. | Weigh Tickets | SP-4 |
| 19. | Preconstruction Meeting | SP-4 |
| 20. | Observation & Control | SP-5 |
| 21. | Cooperation with the Testing Laboratory | SP-5 |
| 22. | Dust Control | SP-5 |
| 23. | Subsurface Conditions | SP-5 |
| 24. | Time for Completion | SP-5 |
| 25. | Pay Items | SP-5 |
| 26. | Initial Photography | SP-5 |
| 27. | Mud, Dust, & Debris | SP-6 |
| 28. | Final Cleaning Up | SP-6 |
| 29. | Fort Mitchell Code Sections | SP-7 |

MEASUREMENT AND PAYMENT

| | | |
|----|---------|------|
| 1. | General | MP-1 |
|----|---------|------|

PROPOSAL

| | | |
|-----|---------------------------------------|-----|
| 1. | Preamble | P-1 |
| 2. | Examination of Site | P-1 |
| 3. | Bid Schedule | P-2 |
| 4. | Time of Commencement and Completion | P-5 |
| 5. | Liquidated Damages | P-5 |
| 6. | Time Limit for Execution of Documents | P-5 |
| 7. | Bid Period | P-5 |
| 8. | Bid Guaranty | P-6 |
| 9. | Declaration of Interest in Proposal | P-6 |
| 10. | Schedules | P-6 |

TABLE OF CONTENTS (cont'd)

ATTACHMENTS

| | | |
|----|--|---|
| 1. | Schedule 'A' – List of Subcontractors | 1 |
| 2. | Schedule 'B' – Current Projects in which Contractor and/or Subcontractor are Currently Engaged | 2 |
| 3. | Schedule 'C' – Projects of Similar Size and Scope That Have Been Completed by Contractor and/or Subcontractor within Last Five Years | 3 |
| 4. | Schedule 'D' – Key Personnel | 4 |
| 5. | Schedule 'E' – Anticipated Construction Schedule | 5 |

CONTRACT

| | | |
|-------|---|-----|
| I. | Performance of Work | C-1 |
| II. | Term | C-1 |
| III. | Skilled Workers | C-2 |
| IV. | Employment of Labor | C-2 |
| V. | Liability, Indemnity and Insurance | C-2 |
| VI. | Required Documents | C-4 |
| VII. | Guarantee | C-4 |
| VIII. | Materials Furnished and Services Rendered | C-4 |
| IX. | Payment | C-5 |
| X. | Termination by the City | C-5 |
| XI. | Miscellaneous Provisions | C-5 |
| XII. | Entire Contract | C-7 |

APPENDIX 'A'

Vendor Insurance Requirements

Required Affidavit for Bidders Offers and Contractors Claiming Resident Bidder Status

Bid Guaranty and Contract Bond

Certificate as to Interest

Affidavit Regarding Worker's Compensation and Unemployment Insurance

Guarantee

Final Release of Lien

Performance Bond

Payment Bond

INSTRUCTIONS TO BIDDERS

1. GENERAL

The Bidder is expected to examine carefully the site of the proposed work, the proposal, plans, specifications, contract forms, general conditions, addenda, and contract before submitting a bid. The submission of a bid shall be considered evidence that the Bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the plans, specifications, special provisions, general conditions, addenda, and contract.

Subject to public safety and convenience, prospective Bidders will be permitted to explore the site of the work by boring or test pits, permits for which will be issued by the Engineer/Architect. Explorations shall be at the sole risk and expense to the Bidder and under conditions of maintaining and restoring safety.

The Owner does not make any representation of soil or foundation conditions or materials, nor does it represent that drawings may not be modified to meet changes in soil conditions encountered as the work progresses. The Contractor must inspect the site of the proposed work and must assume all risk as to the nature and behavior of the material, which may be encountered in excavation, whether apparent on the surface or disclosed only in the course of the work.

The Proposal shall be enclosed in a sealed envelope and clearly labeled with the name of the project, name and address of the bidder, and the date and time of opening, so as to guard against the premature opening of any bid. The Proposal shall be signed by an authorized representative of Bidder.

The Bidder should notify the Engineer/Architect promptly of any discrepancies in, or omissions from the Contract Documents. The Engineer will issue a clarifying addendum to each person on record as having received a set of Contract Documents. The Owner will not be responsible for oral instruction or information. Questions received less than seven (7) days prior to bid date cannot be answered. Any addenda issued during the bidding period are to be included in the Proposal and shall become a part thereof.

The Proposal contained in the Specifications and Contract Documents is to be executed and completed in full and is not to be detached from the bound set of documents.

2. REJECTION OF PROPOSALS

Proposals that contain any omission, condition, or limitation or that show any other irregularity of any kind may be rejected in the sole discretion of the Owner.

3. DISCREPANCY (BID PRICE)

In the case of discrepancy between the bid price in words and in figures in the Proposal, the price words will control.

4. CONSENT OF SURETY

When specifically required hereinafter, Consent of Surety should be executed and accompany the Proposal.

5. BID GUARANTY

The Bidder shall be required to furnish a bid guarantee bond in the amount of not less than 5% of the bid with good and sufficient surety acceptable to the Owner or with a certified check payable to the

Owner in the amount of not less than 5% of the bid. This bond must be executed in the form provided as a part of these Contract Documents.

6. **EXTRA WORK**

Any departures from the original contract will be made as provided in the General Conditions under "Extra Work".

7. **SECOND HAND AND SALVAGED MATERIALS**

The use of second hand and/or salvaged materials will not be permitted unless specifically provided for in the specifications.

8. **AWARD OF CONTRACTS**

The award of the Contract, if it is to be awarded, will be made to the best overall Bidder whose bid complies with all the requirements prescribed. In no case will an award be made until all necessary investigations are made as to the responsibility of the Bidder to whom it is proposed to award the Contract. The successful Bidder will be notified by email to the address shown on its bid that its bid has been accepted and that it has been awarded the Contract.

The Owner reserves the right to require the Bidder to present satisfactory evidence that it has been regularly engaged, as either principal or superintendent in the business of construction work similar to that proposed herein; to require the Bidder to present satisfactory evidence that it is fully prepared with the necessary capital, material, machinery and equipment to conduct the work to be contracted for to the satisfaction of the Owner; and to begin promptly when so ordered.

Notwithstanding the foregoing, the Owner reserves the right to reject any and all bids, the right to waive any informality or irregularity in any bids and the right to negotiate with the Bidder submitting the apparent lowest and best bid.

9. **EXECUTION OF CONTRACT**

The Contract shall be signed by the successful Bidder and returned to Owner together with the Bonds, insurance certificates, and other Contract Documents required hereunder within ten (10) days after the Bidder has received notice that the Contract has been awarded. Failure to do so will constitute grounds for the Owner to consider another bidder. No bid shall be considered binding upon the Owner until the execution of the Contract by both parties. Provided that the successful Bidder has complied with the terms of the Contract Documents, if the Owner does not execute the Contract within sixty (60) days following receipt from the Bidder of the required Contract Documents, the Bidder will have the right to withdraw his bid without prejudice.

If the successful Bidder is a corporation, the officer who signs the Contract shall furnish copies of a resolution of the Directors of the Corporation bearing the seal of the corporation, authorizing him to sign the Contract.

10. **INTERPRETATION OF CONTRACT DOCUMENTS**

If any person contemplating the submission of a bid for the proposed contract is in doubt as to the true meaning of any part of the plans, specifications, or other proposed contract documents, he should submit an email for an interpretation thereof to Bayer Becker, 209 Grandview Drive, Fort Mitchell, Kentucky 41017. The person making the request will be responsible for its prompt delivery. Any interpretation of the Contract Documents will be made only by addenda duly issued and emailed to each person receiving a set of such documents. The Owner will not be responsible for explanations or interpretations of the proposed documents except as issued in accordance herewith.

11. QUALIFICATIONS OF BIDDERS

The contractors bidding on the work must give evidence of their experience in the class of work involved, comparable in size and type performed by them as general contractors.

Proposals submitted by contractors who have not, in the opinion of the Engineer/Architect and/or Owner, had sufficient experience in the size and type of work involved, may not be considered.

12. ALTERNATES

Bid alternates are provide within the bid form. The Owner shall accept or reject the proposal or alternate bids.

13. MODIFICATION AND/OR WITHDRAWAL OF BIDS

"Telegraphic" modification of bids is prohibited. Any bidder may withdraw his bid in person or by telegraphic or written request at any time prior to the scheduled time for closing the receipt of bids.

14. DISQUALIFIED BIDDERS

Any bidder who has defaulted on any contract within the past three years shall not be qualified for any portion of the work.

15. MATERIALS AND EQUIPMENT REQUIREMENTS IN PROPOSAL

It is the intention of these specifications to specify standard materials and equipment.

16. "OR EQUAL" CLAUSE

Whenever the words "or equal" appear in the specifications, they shall be interpreted to mean an item of material or equipment that in the opinion of the Engineer/Architect is similar to that named, suited to the same use, and capable of performing the same function as that named.

17. SPECIFIC BRANDS, MAKES, OR MANUFACTURE

Wherever in the specifications a certain brand, make, or manufacturer is set out, it is intended to denote the quality standard of the article desired. Substitutions may be proposed, but must be approved by the Engineer/Architect prior to bid.

18. PAYMENT FOR MATERIALS STORED AT SITE OF PROJECT

Payment for materials or equipment stored at the site of the project may be allowed by the Owner to the extent of 90% of the cost of such materials or equipment upon specific recommendation of the Engineer. Materials or equipment eligible for advance payment prior to being incorporated in the work or prior to installation are cast/ductile iron pipe, valves, special cast/ductile iron fittings, structural steel, machinery, equipment, or such other items as in the opinion of the Engineer/Architect are eligible.

19. CONTRACT SECURITY OR PERFORMANCE BOND

The Contractor will be required to furnish a Payment Bond and a Performance Bond executed by a good and sufficient surety acceptable to Owner, duly authorized to do business in the Commonwealth of Kentucky, in an amount not less than 100% of the contract price, as security for the faithful performance of the Contract and as security for the payment of all persons performing labor and furnishing materials

in connection with the Contract. These bonds must be executed in the form provided as a part of these Contract Documents. If this is a Prevailing Wage Project such bonds shall include provisions that will guarantee the faithful payment and performance of the prevailing hourly wage.

20. CONTRACTOR'S INSURANCE COVERAGE & CANCELLATION PROVISIONS

The Contractor will not be permitted to commence work until he has obtained all insurance required by these documents and such insurance has been approved by the Engineer, nor shall the Contractor allow any subcontractor to commence work, on his subcontract until all insurance required has been so obtained and approved.

Such insurance shall be secured from an insurance company authorized to write casualty insurance in the State of Kentucky and shall protect the Contractor, his subcontractors, the Engineer, and the Owner from claims for bodily injury, death, property damages, fire and the other risks set out herein.

Each policy of insurance covering the Contractor's operations under the Contract shall provide either in the body of the policy, or by appropriate endorsement (rider) to the policy, that such policy cannot be altered or cancelled in less than thirty (30) days after the mailing of written notice of such alteration or cancellation to the Owner (insured) and Engineer.

Certificates of insurance coverage shall include a statement of alteration or cancellation provisions of the policy, sufficient to show definitely that such provisions comply with the requirements stated herein.

21. INDEMNITY - COMPREHENSIVE GENERAL LIABILITY INSURANCE

A. Indemnity. Contractor shall keep, hold, and defend the Owner, including all officers, councilmembers, agents, and employees thereof, harmless from any and all costs, liabilities, damages, expenses (including costs of suit and reasonable expenses of legal services), claims, demands and causes of action whatsoever claimed by anyone by reason of injury or damage to persons or property sustained as a result of the acts or omissions of Contractor, its agents, servants, employees, subcontractors, suppliers, or invitees, or arising out of the operations of Contractor, excepting such liability resulting from the sole negligence of the Owner; provided however, that upon the filing of any claim with the Owner for damages arising out of the incidents for which Contractor agrees to hold the Owner harmless, then and in that event, the Owner shall notify Contractor of such claim and Contractor shall have the right to settle, compromise, or defend the same. The Owner shall have the right to reasonably approve any settlement or compromise prior to its offer to any third party or prior to its acceptance by the Contractor. The Owner shall have the right to defend its interests in any action at the Owner's sole cost and expense. Any final judgment rendered against the Owner for any cause for which Contractor is liable hereunder shall be conclusive against Contractor as to liability and amount when the time for appeal therefrom has expired. The provisions of this paragraph shall survive the expiration or earlier termination of this Contract.

B. Commercial General Liability and Umbrella Liability Insurance.

1. Contractor shall maintain commercial General Liability (CGL) and if necessary, commercial umbrella insurance covering against bodily injury, personal injury and property damage liability with a limit of not less than \$1,000,000.00 each occurrence. Such insurance shall include coverage relating to exposures of (a) premises and operations, (b) the explosion, collapse and underground hazards, (c) broad form property damage liability, (d) products/completed operations liability hazards, (e) contingent liability and (f) contractual liability, as assumed by Contractor hereunder. If such CGL insurance contains a general aggregate limit, it shall apply separately to operations under this Contract. Further, the insurance shall include coverage for the hazards commonly referred to as XCU (explosion, collapse, and underground). This coverage should be obtained if the contract involves blasting, excavating, tunneling, or other underground work. The products and completed operations coverage shall extend for two (2) years past acceptance, cancellation, or termination of the work.

2. The CGL insurance shall be written on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall include coverage arising from, but not limited to: premises, operations, contractors, subcontractors, consultants, products, completed operations, property damage, personal injury and advertising injury and liability assumed under an insured contract. Said insurance shall contain a severability of interests provision.

22. COMPREHENSIVE AUTOMOTIVE LIABILITY COVERAGE

The Contractor and any subcontractors shall maintain Business Automobile Liability Insurance with a combined single limit for bodily injury and property damage of no less than \$1,000,000.00 per occurrence, with respect to all vehicles used in the performance of the work, whether owned, non-owned, leased, hired, or assigned. Such insurance shall include coverage for uninsured and underinsured motorists. Contractor shall furnish the Owner with proper Certificates of Insurance

23. WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE

Each Contractor and/or subcontractor shall procure his own Workmen's Compensation and Employer's Liability Insurance as provided under the rules and regulations of the Commonwealth of Kentucky. Minimum levels of Employer's Liability shall be Five Hundred Thousand Dollars (\$500,000).

An affidavit regarding Worker's Compensation and Unemployment Insurance is provided at the end of this Section. The successful Bidder must execute this affidavit and submit it to the Owner.

24. BUILDERS RISK, FIRE, AND EXTENDED COVERAGE

The Contractor shall purchase and maintain Property Insurance upon the entire work at the site to the full insurable value thereof, including stockpiled material at the construction site intended for incorporation into the Project. This insurance shall also include the interest of the Contractors and subcontractors in the work and shall be written on "all risk" or special causes of loss policy form that shall at least include and insure against the following perils: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse and water damage". The policy will cover the interest of the Owner and the Contractor and a certificate of insurance evidencing such coverage shall be secured and presented to the Owner prior to the start of construction.

25. GENERAL INFORMATION RELATING TO INSURANCE

The policies required by this Contract shall include the Owner as additional insured or loss payee as applicable and shall stipulate that the insurance shall be primary insurance and that any insurance carried by the Owner, its directors, officers, public officials, or employees shall not be contributory insurance. *Additional insured status shall be provided by ISO form CG201185 (or substitute form providing equivalent coverage) or the combination of ISO forms CG20100704 and CG20370704 (or substitute forms providing equivalent coverage).* Contractor and its insurers providing the required coverage shall waive all rights of recovery against the Owner and its directors, officers, public officials, employees, and agents. The Contractor and/or subcontractors shall provide the indicated minimum levels of coverage. Prior to commencing any work under this Contract, Contractor will furnish the Owner with certificates of insurance issued by Contractor's insurer(s) as necessary, in a form acceptable to the Owner, as evidence that the insurance policies, including all applicable endorsements, providing the required coverage, conditions, and limits required by the section are in full force and effect. The Owner also reserves the right to request and receive certified copies of any and all such insurance policies and/or endorsements. The Owner shall not be obligated to review such insurance certificates, policies, and endorsements, or to advise the Contractor of any deficiencies in such documents, and such receipt shall not relieve the Contractor from, or be deemed a waiver of the Owner's right to insist on strict fulfillment of Contractor's obligations herein. Such certificates shall state that the coverage shall not be amended so

as to decrease the protection below the limits specified herein or be subject to cancellation without at least thirty (30) calendar days advance written notice to the Owner. A renewal policy or renewal certificate shall be delivered to the Owner at least thirty (30) calendar days prior to any policy's expiration date, except for any policy expiring on the expiration date of the Contract or thereafter.

In the event Contractor shall at any time fail to have in effect the insurance required under the provisions of this Contract, upon written notice to the Contractor of its intention to do so, the Owner shall have the right, but not the obligation, to secure the insurance required hereunder at the cost and expense of the Contractor. In the event the Contractor shall at any time fail to furnish the Owner with the certificate or certificates required hereunder, the Owner may, at any time, after fifteen (15) calendar days written notice to Contractor of its intention to do so, secure the required certificate or certificates at the cost and expense of the Contractor. Contractor agrees to reimburse the Owner for the costs thereof, plus fifteen percent (15%) for administrative overhead. This shall be without prejudice to any other right the Owner may have in law or equity, including the right to terminate the Contract.

The extent of coverage or the limits of liability provided under the policies procured by the Contractor and/or subcontractors shall not be construed to be a limitation on the nature or extent of the Contractor's obligations or to relieve the Contractor of any such obligations or representation by the City of Fort Mitchell, Kentucky as to the adequacy of the insurance to protect the Contractor against the obligations imposed on him by law or by this or any other Contract.

The Contractor and his subcontractors agree to limit the liability of the Engineer/Architect and Owner due to the errors or omissions of the Engineer and/or the Owner, such that the total aggregate liability shall not exceed the lesser of the Contract bid amount or \$50,000.00(the amount of liability insurance agreed to by Owner).

The provisions hereunder shall be applicable to any subcontractor utilized by Contractor in the performance of any service under this Agreement, and Contractor shall ensure that any such subcontractor is compliant with the terms herein

26. INSURANCE, PROOF OF CARRIAGE

The Contractor shall furnish the Engineer/Architect with satisfactory proof of coverage of the insurance required in the form of appropriate certificates or copies of the policies.

The Contractor shall furnish to the Engineer/Architect the name, address, phone number, email address, FAX number, and name of the contact person for each Insurance Company to enable ease of contact if necessary.

27. PAYMENT OF EMPLOYEES

The Contractor and each of his sub-contractors shall pay each of his employees engaged in work on the project in full (less deductions made mandatory by law) in cash and not less often than once each week.

28. WAGES & HOURS

The Contractor shall conform in every respect to applicable rules, regulations, and statutes pertaining to wages and hours of work. Prevailing wage is not required.

29. CONSTRUCTION RECORDS & REPORTS

The Contractor shall furnish the Owner with substantial proof that all payrolls for services rendered and invoices for materials supplied have been duly paid as herein required, and such other data as the Owner may require.

In connection with all lump sum contracts, the Contractor shall furnish the Engineer/Architect a suitable detailed breakdown on which to base partial payment estimates.

When so required, the Contractor shall furnish and keep current a suitable progress chart or schedule showing the estimated and actual progress on the work. The progress chart or schedule shall be subject to the approval of the Engineer/Architect.

The Contractor shall furnish all the necessary information for, and assist in the preparation of, and/or prepare the partial payment estimates on forms approved by the Engineer/Architect.

The Engineer/Architect or his authorized representatives and agents shall be permitted to inspect all payrolls, records of personnel, invoices of materials, and other relevant data and records.

30. CONTRACTOR'S ACCOUNTS

The Contractor shall pay: (1) for all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered; (2) for all materials, tools, and other expendable equipment to the extent of 90 percent (90%) of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools, and equipment are delivered at the site of the project, and the balance of the cost thereof not later than the 30th day following the completion of that part of the work in or on which such materials, tools, and equipment are incorporated or used; and (3) to each of his sub-contractors, no later than the 5th day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by his sub-contractors, to the extent of each such sub-contractor's interest therein.

31. COMMENCEMENT AND COMPLETION OF WORK

The Contractor shall commence work on a date to be specified in a written order of the Engineer/Architect or owner, and shall fully complete all work under the contract within the number of days set out in the Proposal and/or Contract, from and including said date.

32. COMPLETION DATE

The work under the terms of the Contract shall be substantially completed and ready for use no later than **September 15, 2022**, with all work to be completed no later than **September 30, 2022**.

GENERAL CONDITIONS

1. DEFINITIONS AND MEANING OF TERMS

Whenever in these specifications and Contract Documents the following terms or pronouns referring to them are used, the intent and meaning shall be interpreted as follows:

- (a) The Contract or Agreement shall mean the contract executed by the Owner and the Contractor, of which these General Conditions form a part.
- (b) The terms Owner or City, and Contractor shall mean the respective parties to the Contract.
- (c) The term Engineer or Engineer/Architect shall mean Bayer-Becker, 209 Grandview Drive, Fort Mitchell, Kentucky, their successors or duly authorized representatives.
- (d) The Contract Documents shall mean and include the Notice of Invitation to Bid, Instruction to Bidders, General Conditions, Standard Specifications, Technical Specifications, Special Provisions, Bid/Proposal form, Contract Bonds, Plans, (drawings), Measure of Payment, the Contract, and all Attachments, Appendices, Addenda and Exhibits to the forgoing.

2. NOTICE AND SERVICE THEREOF ON CONTRACTORS

For purposes herein, any notices, letters, and other communications to be given to the Contractor hereunder may be given at the address set forth in the Bid/Proposal upon which this Contract is founded or at the Contractor's office at or near the site of the work. Any notices, letters, and other communications to be given to the Owner hereunder shall be given to the Engineer/Architect and the City Clerk at the addresses set forth herein. Any such notices, letters, and other communications shall be delivered to the Contractor or Engineer and Owner by delivering same in person, or by mailing same by certified mail, with postage prepaid. Such notices, letters, and other communications shall be deemed received as of the date of such personal delivery or the date of deposit in the mail. The place for any notice required hereunder may be changed by either party by given notice to the other respective party(ies) of such change.

3. CONTRACTOR

It is understood and agreed that the Contractor has satisfied himself as to the nature and location of the work, the topography of the ground, the character of equipment or other facilities needed for the proper prosecution of the work, the general and local conditions, and all other matters which in any way affect the work under the Contract.

Only one Contractor is to sign this Contract. For convenience, the specifications may be divided into separate headings or divisions to cover the various trades represented in the work, and wherein "Contractors" such as "Electrical Contractor", "Plumbing Contractor", and other "Contractors" as referred to, it has been for convenience only. No verbal statement of any officer, agent or employee of the Owner or the Engineer, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations contained herein, except as otherwise allowed in these specifications.

4. SUBCONTRACTORS

The Contractor shall furnish to the Engineer/Architect, the names of all of the subcontractors proposed to work on and supply materials to the project, and shall not employ any subcontractor that the Engineer/Architect objects to as incompetent or unfit. The Contractor shall be responsible to the Owner for his subcontractors.

5. ASSIGNMENT AND SUBLETTING OF CONTRACT

The Contractor will not sell, transfer, assign or otherwise dispose of all or any portion of this Contract without the prior written consent of the Owner. Nor shall Contractor sublet all or any portion of this Contract without the prior written consent of the Owner. However, in no case shall the Contractor be permitted to sublet more than fifty percent (50%), of the total Contract cost.

6. CONTRACT DOCUMENTS

The Notice of Invitation to Bid, Instruction to Bidders, General Conditions, Standard Specifications Technical Specifications, Special Provisions, Bid/Proposal Form, Contract Bonds, Plans, (drawings), Measure of Payment, and all Attachments, Appendices, Addenda and Exhibits to the forgoing shall all be binding on the Contractor, and shall be incorporated fully as a part of the Contract as if thereto attached.

7. FAILURE TO COMPLETE WORK ON TIME

Should the Contractor fail to complete the work within the time specified in his Proposal and/or Contract, there will be deducted by the Owner "Liquidated Damages in the amount of Five Hundred Dollars (\$500.00) per day. The amount of "Liquidated Damages" shall in no event be considered as a penalty or otherwise than an agreed "Liquidated and adjustment damage" to reimburse by reason of the Contractor's failure to complete the work within the specified time.

8. PROGRESS - CONTRACT TIME - DELAYS AND EXTENSIONS

Before the Contractor begins construction, it shall submit to the Engineer/Architect a schedule showing the method and manner which the Contractor proposes to pursue the work so as to complete the proposed construction in such a manner that it will be ready for final acceptance within the time stated in the Proposal and/or Instruction to Bidders. Said schedule will show location, sequence, equipment, manpower and estimated calendar days to complete each segment of work required. Upon approval of the Engineer/Architect as to the starting point of the various phases of the construction, the method and manner of performing the work and the sequence of operations shall not be altered except with the approval of the Engineer. At no time shall more than one block of any street be closed to traffic.

The Contractor shall use all practical means to make the progress of the work conform to that shown on the progress schedule which is in effect. No payment will be made to the Contractor while he is delinquent in the submission of a progress schedule. Should the prosecution of the work, for any reason, be discontinued, the Contractor shall notify the Engineer/Architect at least twenty-four (24) hours in advance of resuming operations.

The number of days in which the Contractor shall fully perform the proposed improvement has been set out in the Proposal and/or Instructions to Bidders. In arriving at any credit due the Contractor for an extension of time on the Contract, the Owner, upon recommendation of the Engineer/Architect, will allow such credit as in its judgment is deemed equitable and just for all delays occasioned by any act or failure to act on its part or caused by forces beyond the Contractor's control. Additional time will also be allowed to the Contractor to cover approved overruns or additions to Contract in the same proportion that the said overrun or addition in monetary value bears to the original Contract amount.

9. PROSECUTION OF THE WORK

The Contractor shall give his personal superintendence to the work or have a competent superintendent, satisfactory to the Owner and the Engineer/Architect, on the work at all times during the progress, with full authority to act for him. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work.

The Contractor shall be prepared to start work as stipulated in the Proposal, but shall not start work until he has received official notice from the Engineer/Architect to do so. The work shall be prosecuted in a manner and with sufficient materials, equipment, and labor as is considered necessary to ensure completion within the time set forth in the Contract. The Contractor shall not suspend the work or any portion of it without the written consent of the Owner.

10. CHARACTER OF WORKMEN AND EQUIPMENT

The Contractor shall employ only workmen skilled in their various duties and shall dismiss, at the request of the Engineer, any person employed in, about or upon the work, who misconducts himself or is incompetent or negligent in the performance of duties assigned to him. The Contractor shall furnish such equipment and employ such labor as is considered necessary by the Engineer/Architect for the proper performance of the work.

11. DEFECTIVE MATERIALS AND WORKMANSHIP

Materials brought on the work which are not in accordance with the specifications shall be removed from the site of the work by the Contractor at his own expense, and so disposed of that there will be no probability of their being used on the work or in the construction.

Upon notice from the Engineer/Architect or Owner, all defective workmanship shall be immediately remedied by the Contractor, at his own expense.

If the Contractor fails to remove defective materials or to correct defective workmanship within a reasonable time, fixed in the notice from the Engineer/Architect, the Owner may remove them and/or correct the work and charge all the expense in the connection therewith to the Contractor.

12. GUARANTEE

All machinery and equipment and fittings of every kind furnished under this Contract shall be free from defects in manufacture, materials and/or workmanship, and the Contractor hereby guarantees that all workmanship and all materials furnished under the Contract comply fully with the requirements of the Plans and Specifications. If, at any time within one year after the date of the Final Payment, any defect should appear, which, in the opinion of the Owner or the Engineer/Architect, is due to inferior materials or workmanship, the Contractor guarantees that it will do immediately, without cost to the Owner, whatever is necessary to remedy the defects. The Owner or Engineer/Architect shall notify the Contractor in writing of the defects and the repairs to be made, and the Contractor agrees to begin the repairs within ten (10) days from the date of notice. If the Contractor fails to begin repairs within such ten days, the Owner may forthwith cause the defects to be remedied and charge the cost and expense thereof to the Contractor or to its Surety.

13. ENGINEER'S/ARCHITECT STATUS

The Engineer/Architect shall have authority to stop the work whenever such action may be necessary, to ensure the proper execution of the contract. He shall also have authority to reject work and materials which do not conform to the Contract. Contractor shall supervise and direct the work, using the Contractor's best skill and attention. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the work under the contract, unless the Contract Documents give other specific instructions concerning these matters. They will decide on all engineering and architectural questions, which may arise.

The Engineer/Architect shall assist the Owner or the Contractor, and on all other matters relating to the progress of the work in the interpretation of the Contract. All such decisions of the Engineer/Architect shall be final.

In the event of the termination of the employment of the Engineer/Architect for any reason, the Owner may appoint another capable and reputable Engineer/Architect, whose status under the Contract shall be the same as the former Engineer/Architect.

14. LINES & GRADES

The Engineer will set a benchmark near the structures and furnish the Contractor with the elevation of same. The Contractor shall be responsible for all other lines and grades required for construction of the structures. Where benchmark and property line monuments are encountered in the Work, they shall remain undisturbed except upon express direction of the Engineer. The Contractor shall furnish material and labor required to remove, store, reset or replace such marks or monuments under the supervision of the Engineer. Any disturbed benchmark or property line monument must be restored by a registered professional land surveyor.

Any location or grade stakes and benchmarks that are set by the Engineer shall be the responsibility of the Contractor, after being set, as to damage or destruction of the same. Any location or grade stakes and benchmarks that are destroyed after being set originally shall be reset by the Engineer at the Contractor's expense.

15. OBSERVATION AND INSPECTION OF WORK

The Engineer/Architect or the Owner, their representatives, and representatives of regulatory or sponsoring state or federal agencies shall at all times have full access to the work and to all materials intended for use in the work, as well as to plants where such materials are produced, and the Contractor shall provide facilities for such access and observation.

All materials and each part or detail of the work shall be subject to inspection by the Engineer/Architect. The Engineer or his representative shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

Upon the request of the Engineer/Architect, the Contractor, at any time before acceptance of the work, shall remove and uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the specification. Should the work thus exposed or examined prove acceptable, the uncovering, removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering or removing and the replacing of the covering or making good of the parts removed will be at the Contractor's expense.

Any work done or materials used without inspection by an authorized representative may be ordered removed and replaced at the Contractor's expense. Failure to reject any defective work or material shall not in any way prevent later rejection when such defects are discovered or obligate the Owner to final acceptance.

The Contractor shall notify the Engineer/Architect at least twenty-four (24) hours in advance of operations requiring plant or field observation. The Contractor will pay the cost of all inspection unless specifically stated otherwise.

At the discretion of the Engineer/Architect, the Owner may charge the Contractor with inspection costs when it incurs additional expense for such because of:

1. Re-inspection due to rejection;
2. Use of inspected materials on other than the Owner's work;
3. When inspection is requested and cannot be performed;
4. For any other cause over which the Owner has no control.

These charges for unnecessary inspection or inspection costs due to causes within the Contractor's control will be deducted from amounts due to the Contractor at the completion of the work.

16. PLANS & SPECIFICATIONS

The Engineer/Architect, without charge, will furnish to the Contractor a sufficient number of copies of the plans and specifications for the proper handling of the work.

The Contractor shall keep one (1) set of plans and specifications on the site of the work. This set shall be kept current by the addition of all approved changes, addenda, and amendments thereto.

The plans and specifications are intended to be explanatory to each other; but should any discrepancy appear or any misunderstanding arise as to the import of anything contained in either, the decision of the Engineer/Architect shall be final and binding on the Contractor.

Any corrections of errors or omissions in the drawings and specifications may be made by the Engineer/Architect when such corrections are necessary for the proper fulfillment of their intention as construed by him.

All work or materials shown on the plans and not mentioned in the Bid Sheets, or any work mentioned in the Bid Sheets and not shown on the plans, shall be furnished, performed and done by the Contractor as if the same were both mentioned in the specifications and shown on the plans.

Should the Contractor in preparing his bid find anything necessary for the construction of the project that is not mentioned in the specifications or shown on the plans, or any discrepancy, he shall notify the Engineer/Architect so that such items may be included. Should the Contractor fail to notify the Engineer/Architect of such items, it will be assumed that his bid included everything necessary for the complete construction in the spirit and intent of the designs shown.

In the case of any discrepancy, figure dimensions shall govern over scale dimensions, large scale details shall govern over small-scale drawings, plans shall govern over specifications, and detailed technical specifications shall govern over general specifications.

17. SHOP DRAWINGS

The Contractor shall furnish shop drawings to the Owner and Engineer/Architect in the form and manner required by the Engineer/Architect. Unless otherwise set out, all shop drawings shall be furnished via digital pdf format to the Engineer/Architect. It shall be clearly understood by the Contractor, that the Engineer/Architect will examine the shop drawings for general design only, and that his approval stamped on such drawings shall be approval only for general design and the Contractor shall in all cases be held responsible for detailed dimensions.

In the case of discrepancy between shop drawings and the requirements of the plans, specifications, and contract documents, the provisions of the plans, specifications and contract documents still prevail

even though the shop drawings have been approved by the Engineer/Architect, unless the conflict therein has been specifically waived in writing by the Engineer/Architect.

18. OBSERVATION AND TESTS

The extent of and requirements for the observation and testing of materials, workmanship, machinery and equipment, is set out in the specifications. The Engineer/Architect shall approve bureaus, laboratories and/or agencies selected by the Contractor for observation and testing service.

The cost of such observation and testing service in connection with materials, workmanship, machinery and equipment furnished by the Contractor shall be borne by the Contractor. The Owner will pay for any observation and testing service required in connection with materials, workmanship, machinery or equipment furnished by the Owner.

The Contractor shall furnish at his own expense, including packing and delivery charges, all samples of materials furnished by him that are necessary for testing purposes.

When questions arise as to whether the requirements of the Contract have been fulfilled, the Owner shall engage an independent testing laboratory to perform any tests necessary to establish the acceptability of the work.

Should such additional tests show in the judgment of the Engineer/Architect, the work or materials to be defective or otherwise not meeting the requirements of the Contract, the Contractor shall, immediately upon notification by the Engineer/Architect, remove, replace or reconstruct same, as the case may require and shall if directed by the Engineer/Architect, make such further tests as may be necessary to determine fulfillment of the Contract requirements. The cost of all re-tests shall be deducted from the Contractor's fee for said work.

All tests shall be made under the supervision and direction of the Engineer/Architect except that those required by a public authority shall be under the supervision and direction of such authority. A testing laboratory approved by Engineer/Architect shall perform any such testing, and one copy of the test shall be sent directly to Engineer/Architect.

19. PERMITS AND CODES

Unless otherwise set out in the specifications, the Contractor shall make application for, obtain and pay all fees and charges in connection with all necessary licenses, permits, and similar authorizations. All such licenses, permits, and other authorizations shall be subject to review, inspection, and approval of the Engineer/Architect. The Contractor shall be required to comply with all federal, state and/or local and municipal ordinances, laws, statutes, regulations, and/or codes insofar as the same are binding upon the Owner and Contractor.

The intent of this Contract is the Contractor shall base its bid upon the plans and the specifications, but that all work installed shall comply with all applicable laws, statutes, codes and regulations as amended by any waivers.

Before installing the work, the Contractor shall examine all plans and specifications for compliance with applicable laws, statutes, codes and regulations bearing on the work, and shall immediately report any discrepancy to the Engineer/Architect. Where the requirements of the plans and specifications fail to comply with the applicable code or regulation, the Owner will adjust by change order the Contract to conform to the code or regulation (unless waivers in writing covering the differences have been granted by the governing authority), and shall make appropriate adjustment in the Contract price. Should the Contractor fail to observe the foregoing provisions and install work at variance with any applicable code or regulation as may be amended by waivers (notwithstanding the fact that such

installation is in compliance with the plans and specifications), the Contractor shall remove such work without cost to the Owner, but a change order will be issued to cover only the excess cost to the Contractor would have been entitled to receive if the change had been made before the Contractor commences work on the items involved.

20. STANDARD SPECIFICATIONS

Where standard specifications, such as those of the American Society for Testing and Materials, the American Standards Association, American Concrete Institute (ACI) Building Codes Requirements, National Design Specifications, United States Tennis Association (USTA), United States Pickleball Association (USAPA) etc., are referred to in the specifications and contract documents and on the plans, said references shall be construed to mean the latest amended and/or revised versions of the said standard or tentative specifications.

21. ALTERATION IN PLANS AND SPECIFICATIONS

The Owner reserves the right to make such alteration in the plans and specifications or in the character of the work as may be considered by the Engineer/Architect necessary or desirable from time to time to complete the project in an acceptable manner; provided that, if alterations are made, the general character of the work as a whole is not changed. Thereby such alterations shall not be considered as a waiver of any condition of the contract nor to invalidate any of the provisions nor to release the bond thereof.

22. CHANGES IN THE WORK

The Owner may make changes in the work of the Contractor by making alterations therein, or by making additions thereto, or by omitting work therefrom, without invalidating the Contract and without relieving or releasing the Contractor from any guarantee given by him pursuant to the Contract provisions, and without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All such changes shall be approved and ordered by the Engineer/Architect and executed by the Contractor, under the conditions of the original Contract.

Except in an emergency endangering life or property, no change shall be made by the Contractor unless in pursuance of a written order from the Owner, countersigned by the Engineer/Architect, authorizing the change and no claim for an adjustment of the Contract Price or Time shall be valid unless so ordered.

Should the Contractor encounter or discover during the progress of the work sub-surface or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, the attention of the Engineer/Architect shall immediately be called to such conditions before they are disturbed. If the Engineer/Architect finds that they so materially differ, he shall at once make changes in the plans or specifications as he may find necessary, and any adjustment in the Contract Price or Time as may be justifiable shall be made by means of a written order as provided herein.

23. CLAIMS FOR EXTRA COST

If the Contractor claims that any changes in the work by drawings or otherwise involve extra cost or extension of time, he shall, within **ten (10) days** after the receipt of such change orders, and in any event before proceeding to execute the work, submit his protest thereto in writing to the Engineer/Architect, stating clearly and in detail the basis of his objections. No such claim shall be valid unless so made.

Any discrepancies which may be discovered between actual conditions and those represented by the Engineer/Architect, and work shall not proceed except at the Contractor's risk until written instructions have been received by him from the Engineer/Architect.

If on the basis of the available evidence, the Engineer determines that an adjustment of the contract price or time is justifiable, the procedure shall then be as provided herein for "Changes in Work".

By execution of this Contract the Contractor warrants that he has visited the site of the proposed work and fully acquainted himself with the conditions existing there relating to construction and labor, and that he fully understands the facilities, difficulties, and restrictions attending the execution of the work under the Contract. The Contractor further warrants that he has thoroughly examined and is familiar with the drawings, specifications, and all other documents comprising the Contract. The Contractor further warrants that by execution of this Contract his failure when he was bidding on the Contract to receive or examine any form, instrument or document or to visit the site and acquaint himself with conditions existing there, in no way relieves him from any obligation under the Contract and the Contractor agrees that the Owner shall be justified in rejecting any claim based on facts regarding which he should have been on notice as a result thereof.

24. DETERMINATION OF THE VALUE OF EXTRA (Additional) WORK or OMITTED WORK

The Contractor shall perform all extra work ordered in writing by the Engineer/Architect and the value of such extra (additional) work shall be determined by the Engineer/Architect in one or more of the following ways:

- a. On the basis of the actual cost of all the items of labor (including on-the-job supervision), materials and use of equipment, plus fifteen percent (15%) which shall cover the Contractor's general supervision, overhead, and profit. In the case of subcontracts, the 15 percent is interpreted to mean the subcontractor's supervision, overhead and profit, and an additional 5 percent (5%) may then be added to such costs to cover the General Contractor's supervision and overhead and profit. The cost of labor may include required insurance and taxes. Equipment costs shall be based on current rental rates in the area where work is being performed but, in no case, greater than the current rates published by the Associated Equipment Distributors, Chicago, Illinois.
- b. By estimate and acceptance in lump sum.
- c. By unit prices named in the Contract or subsequently agreed upon.

Provided, however, that the cost or estimated cost of all extra (additional) work shall be determined in advance of authorization by the Engineer/Architect and approved by the Owner. All extra (additional) work shall be executed under the conditions of the original Contract.

No extra (additional) work shall be done except upon a written order from the Engineer; and no claim on the part of the Contractor for pay for extra (additional) work shall be recognized unless so ordered in writing by the Engineer.

25. LANDS FOR WORK

The Owner shall provide the lands upon which the work under this Contract is to be done or the necessary easements over said lands (private property) to include sufficient space for the proper execution of the work, together with right of access to same, except that the Contractor shall provide land required for storage of his materials and shall provide land for erection of any temporary construction facilities for the storage of his equipment. The Contractor will construct at his own

expense any temporary roads or bridges necessary for his own use; he will also furnish his own power and water supply unless otherwise specifically set out herein.

26. SEPARATE CONTRACTS

The Owner reserves the right to let other contracts in connection with the work. The Contractor shall afford other Contractors reasonable opportunity for ingress and egress and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs. The respective right of various interests involved shall be established by the Engineer/Architect to secure proper completion of the various portions of the work.

27. OWNER'S RIGHT TO DO WORK

If the Contractor should neglect or fail to prosecute the work properly or refuse to perform any provision of the Contract, the Owner after **five (5) days** written notice to the Contractor, may, without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from any monies due or which may thereafter become due to the Contractor.

28. SUSPENSION OF WORK

The Owner shall have the authority to suspend the work in whole or in part by giving **five (5) days** notice to the Contractor in writing. The Owner shall reimburse the Contractor for the expenses incurred by him in connection with the work under this contract as a result of such suspension if the suspension of the work is caused through no fault of the Contractor himself.

29. RIGHT OF OWNER TO TERMINATE CONTRACT

In addition to the termination rights of the Owner set forth in the Contract, if the Contractor fails to begin the work under the Contract within the specified time or fails to perform the work with sufficient workmen and equipment or with sufficient materials to ensure the prompt completion of said work within the specified time, or shall perform the work improperly or shall neglect or refuse to remove materials or perform anew such work as shall be rejected as defective or unsuitable or shall be stopped by a Court Order resulting from injunctive action or shall discontinue the prosecution of the work, or if the Contractor shall become insolvent or be declared bankrupt or commit any act of bankruptcy or insolvency or allow any final judgment to stand against it unsatisfied for a period of five (5) days or shall fail to remove within forty-eight (48) hours after receipt of proper notice, any employee or person engaged in work under the Contract, or shall make any assignment for the benefit of creditors, or shall fail to carry out the work in an acceptable manner, or fails to otherwise abide by all of the terms of the Contract, the Owner shall give notice in writing to the Contractor and its Surety of such delay, neglect or default, specifying the same, and if the Contractor within a period of ten (10) days after such notice shall not proceed in accordance therewith, then the Owner shall upon written certification from the Engineer of the fact of such delay, neglect or default, and the Contractor's failure to comply with such notice, have full power and authority without violating the Contract to terminate the Contractor's right to proceed with the work, to take over the prosecution of the work of said Contractor, to appropriate or use any and all materials and equipment on the ground as may be suitable and acceptable and may enter into an agreement for the completion of said Contract according to the terms and provisions thereof, and use other methods as in the Owner's opinion shall be required for the completion of said Contract in an acceptable manner.

All costs and charges incurred by the Owner, together with the costs of completing the work under Contract shall be deducted from any monies due or which may become due to said Contractor. In case the expense so incurred by the Owner shall be less than the sum which would have been payable under the Contract, if it had been completed by said Contractor, then the Contractor shall be entitled to receive the difference and in case such expense shall exceed the sum which would have been payable

under the Contract, then the Contractor and the Surety shall be liable and shall pay to the Owner the amount of said excess.

30. USING COMPLETED PORTION OF WORK

The Owner shall have the right to take possession of and use any completed portion or portions of the work even though the time for completing the entire work or such portions may not have expired. The possession and use by the Owner shall not be deemed an acceptance of any work not completed in accordance with the Contract. If such prior use increases the cost of or delays the work, the Contractor shall be entitled to such extra compensation or extension of time or both as the Engineer/Architect may determine. The use by the Owner of any portion of the work shall release the Contractor from his Builder's Risk insurance covering such portion used.

31. OWNER'S RIGHT TO WITHHOLD PAYMENTS

In order to protect itself from loss, the Owner may withhold payment, which would otherwise be due the Contractor on account of:

- a. Failure to remedy defective work or remove defective materials from the job.
- b. Third party claims filed or reasonable evidence indicating probable filing of such claims against Contractor.
- c. Expiration of contract time.
- d. For other causes which in the opinion of the Engineer/Architect would justify the Owner in withholding such payment or payments.
- e. Failure of the Contractor to make payments properly to subcontractors or for labor, materials or equipment.
- f. Reasonable evidence that the work cannot be completed for the unpaid balance of the contract sum.
- g. Persistent failure to carry out the work in accordance with the Contract Documents.

32. DEDUCTIONS FOR UNCORRECTED WORK

If the Engineer/Architect and Owner deem it inexpedient to correct work injured or not done in accordance with the Contract, an equitable deduction from the contract price shall be made thereof.

33. ACCIDENT PREVENTION

The Contractor shall exercise proper precaution at all times for the protection of persons and property. The safety provisions of applicable laws, building and construction codes shall be observed and the Contractor shall take or cause to be taken such additional safety measures as the Engineer/Architect has no job safety responsibility and gives no direction. Machinery equipment and all hazards shall be guarded in accordance with the safety provisions of the Manual of Accident Prevention in Construction published by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable law.

34. SANITARY FACILITIES

The Contractor shall furnish, install and maintain ample sanitary facilities for the workmen. As the needs arise, enclosed temporary toilets in sufficient number shall be placed as directed by the site contractor. Permanent toilets, installed under this Contract shall not be used during construction. Drinking water shall be provided from a proved safe source so piped or transported as to be kept clean and fresh and served from single service containers or satisfactory types.

35. PROTECTION OF WORK & PROPERTY

The Contractor shall comply with all laws, ordinances, rules and regulations bearing on the conduct of the work. He shall maintain adequate protection for all the work from damage and shall protect the Owner's property from injury or loss in connection with the performance of this Contract. He shall make good to the Owner any such damage, injury or loss.

The Contractor shall provide Builder's Risk Insurance against fire, explosion, flood and storm in all cases where there is any considerable risk from such causes, and all work shall be at this risk until final acceptance or use of same by the Owner.

36. RESPONSIBILITY FOR DAMAGE, CLAIMS, ETC.

The Contractor shall provide indemnity to the Owner, its council members, directors, officers, agents and employees consistent with terms set forth in the Contract. This indemnity provision shall survive the expiration or early termination of the Contract.

37. NON-REBATE OF WAGES

The Contractor shall comply with the regulations, ruling and interpretations of the Secretary of Labor of the United States pursuant to the Anti-Kickback Act (Title 18, U.S.C. Sec. 874 and Title 40, U.S.C., Sec. 276c) which makes it unlawful to induce any person employed in the construction or repair of public buildings or public works to give up any part of the compensation to which he is entitled under his Contract of employment; and the Contractor agrees to insert a like provision in all subcontracts hereunder.

38. CONTRACTOR'S FINAL RELEASE

Before the Owner pays to the Contractor his final payment on the work, the Contractor will be required to sign a final release. This final release shall be notarized and shall state that all claims against the Owner on the Contractor's part have been met in full; it shall further state that all accounts for labor performed, accounts for materials, liens, judgment, and claims of every nature against the Contractor have been satisfied by him. It shall further state any obligation whatsoever in connection with work which may be presented or suits arising therefrom after the settlement are to be borne by the Contractor. In case the Contractor is unable to settle any claim that may be in dispute or litigation, the Owner may allow him to furnish a proper bond to indemnify the Owner against the lien and release the final estimate to him.

It is understood that the Contractor is to guarantee to the Owner all machinery and/or equipment that he furnishes twelve (12) months from the date of final release and will replace such defective parts without cost to Owner.

39. FINAL CLEANING-UP

The work will not be considered as completed nor final payment made until all final cleaning up has been done by the Contractor in a manner satisfactory to the Engineer/Architect.

40. BID PRICES TO INCLUDE INCIDENTAL WORK

The bid prices will cover and include the cost and expense of all contingents, accessories and incidental work and material required to complete the improvement. This included replacement of services, pavement, fences or any other objects, which are molested in the process of construction on this work. It shall also include where necessary, watchmen, flagmen, barricades, red lights, construction joints, finishing and curing concrete, laying dust, maintaining existing sewage flow, providing access to property, and many other incidents which occur on a normal construction job.

41. TERMINATION BY THE OWNER FOR CONVENIENCE

The Owner may, at any time, terminate the Contract for the Owner's convenience without cause by giving ten (10) days prior written notice to the Contractor. In such case the Contractor shall:

1. Cease operations as directed by the Owner;
2. Take actions necessary, or that the Owner may direct, for the protection and preservation of the work.

In the case of such termination for the Owner's convenience, the Contractor shall be entitled, as his sole remedy and recovery, to receive payment for all work executed by the Contractor.

42. CONTRACTOR'S RIGHT TO TERMINATE CONTRACT

The Contractor may terminate the Contract, upon ten days written notice to the Owner, if any public authority should stop, or cause to be stopped, the work for a period of six (6) months. The Contractor may terminate this Contract for any material breach of the Contract by the Owner, provided that the Contractor shall have first provided the Owner with written notice of such breach and the Owner fails to remedy such breach within 30 days of such notice.

43. UTILITY OWNERSHIP

The following utilities and owners are located within the work limits of this project:

Gas & Electric: Ed Pamer – Duke Energy / Gas
Patty Memering – Duke Energy / Electric
139 East Fourth Street
Cincinnati, Ohio 45201
513-287-2594 / 513-287-3498

Water: Northern Kentucky Water District
2835 Crescent Springs Rd.
Erlanger, KY 41018-0640
859-578-9898

Telephone: Mark Conner / Tony Niehaus
Cincinnati Bell Telephone Company
201 East 4th Street

Cincinnati, Ohio 45201
513-565-7043 / 513-566-8059

Cable TV: Brian Kells
Time Warner Cable
7906 Dixie Highway
Florence, Kentucky 41042
859-431-7766

**Sanitary
Sewer:** Andy Aman
Sanitation District No. 1
1045 Eaton Drive
Ft. Wright, Kentucky 41017
859-578-7467

**Storm
Sewer:** Sean Blake
Sanitation District No. 1
1045 Eaton Drive
Ft. Wright, Kentucky 41017
859-578-7468

SPECIAL PROVISIONS

1. SCOPE OF WORK

The work to be performed under this Contract consists of furnishing all plant, materials, equipment, supplies, labor and transportation, including fuel, power, water, (except any materials, equipment, utility, or service, if any, specified herein to be furnished by the Owner), and performing all work required in the statement of work in the Contract, in strict accordance with the specifications, schedules, and drawings, all of which are made a part hereof and including such detail drawings as may be furnished by the Engineer from time to time during the prosecution of work in explanation of said drawings.

2. PROJECT SIGNS - EXISTING STRUCTURES

Existing street signs, inlet and manhole castings and driveway underdrains and culvert pipes are to be carefully removed or excavated by the Contractor without damage as excavation and work progresses and placed within the right-of-way where they may be conveniently picked up by the Owner's forces. Old materials not reserved by the Owner and not to be used in the work will become the property of and must be disposed of by the Contractor.

At the completion of the project, construction debris shall be removed and disposed of by the contractor. Excess material (fencing, etc...) shall be the property of the owner and removed at the direction of the owner

3. FIELD OFFICE

None required.

4. WORK ON PRIVATE PROPERTY

In connection with work performed on private property (property other than that belonging to the Owner), the Contractor shall confine his equipment, the storage of materials and the operations of his workmen to the limits indicated on the plans, and to lands and rights-of-way provided for the Project by the Owner, and shall take every precaution to avoid damage to the property Owner's buildings, grounds, and facilities. Fences, hedges, shrubs, and landscaping etc., within the construction limits, shall be carefully removed, preserved, and replaced when the construction is completed. All grassed areas shall be graded and seeded as set forth in "Sodding, Seeding, and Mulching" section. Grassed areas other than lawns shall be graded, fertilized, and seeded when construction is completed.

When construction is completed, the private property owner's facilities and grounds shall be restored to as good or better condition than found and as quickly as possible at the Contractor's expense.

Large trees or other facilities within the actual construction limits that cannot be preserved and replaced shall be removed by the Contractor, but the Owner will assume the responsibility for settling with the property owner for the loss of said trees or facilities. The trees and facilities, however, will be designated on the drawings and the Contractor shall be solely and entirely responsible for any damage to trees or facilities not so designated.

Foundations, adjacent to where an excavation is to be made below the bottom of the foundation, shall be supported by shoring, bracing or underpinning as long as the excavation shall remain open and the Contractor shall be held strictly responsible for any damage to said foundations.

It may be necessary for protection of buildings and foundations to leave shoring in place, which becomes the Contractor's responsibility for this protection of the building.

5. INTERFERENCE WITH TRAFFIC & PRIVATE & PUBLIC PROPERTY

- A. The Contractor at all times shall conduct the work in such a manner as to cause as little interference as possible with private property or with private and public travel on the public highway. All damage (other than that resulting from normal wear and tear) to existing roads or pavements shall be repaired to as good of condition as they were prior to the beginning of the work and to the satisfaction of the Engineer.
- B. The Contractor shall wherever necessary or required provide and maintain proper barricade, fences, danger signals, signs, and light, provide a sufficient number of watchmen, and take such other precautions as may be necessary to protect the life, property, adjacent buildings, and structures.
- C. Where the Contractor finds it necessary to remove excavated material to some other location, care should be taken not to overload trucks, which would in turn spill material out upon highways. Any such material spilled upon highways shall be immediately cleaned up from the location and disposed of.
- D. Where it is necessary and is agreeable with the public and private property owners, excavated materials may be temporarily piled in the streets or roadways; however, one lane of traffic must be maintained at all times.

After excavated materials have been removed, all hard surface streets or roadways shall be thoroughly cleaned and left free of dirt and dust. Streets or roadways, which do not have hard surfaces, must be restored to their original condition at the expense of the Contractor.

- E. The Contractor shall comply with any regulations requested by State or Federal Highway Officials when construction is within their rights of ways.

By no means will the Contractor be permitted to store excavated materials in streets or roadways overnight.

The Contractor shall at his own expense keep all streets or roadways free of all dirt and dust.

6. CHANGE IN SCOPE OF WORK

The Owner reserves the right to increase or decrease the scope of the project where covered. Where covered the unit prices as bid shall cover said changes. Where changes are made on the lump sum contract items, the change shall be made as covered in the "General Conditions", Item 24, "Extra Work".

7. COOPERATION AND COORDINATION WITH UTILITIES

All portions of Item 105.07 and Item 107.15 of the Kentucky Department of Highways Standard Specifications for Road and Bridge Construction shall apply.

Gas, oil and electric lines belonging to the Duke Energy and buried telephone lines belonging to Cincinnati Bell, along with other possible utility lines, including cable television lines, may cross the project. The Contractor shall notify the Engineer, Owner, the Registered underground Utility protection Service and Duke Energy, Cincinnati Bell, or other utility at least forty-eight (48) hours prior to excavating to verify their locations. The Contractor shall comply with any rules and regulations of Duke Energy, Cincinnati Bell, or other utility governing excavation around gas, telephone and cable lines and be responsible for all associated costs and damage to the lines. Overhead electric lines and cable television lines may cross the project in several locations. The Contractor shall conduct his operations to avoid interference with these lines.

The existing underground utilities are shown as accurately as possible on the plans, based on available information. The owner and/or the Engineer do not assume any liability for location of these underground utility service lines. Any utility services damaged by Contractor, its agent's representatives or subcontractors, that were previously marked in the field shall be replaced at Contractor's expense. Where the plans provide for conduit to be connected to, or to cross either over or under, or close to an existing underground structure, it shall be the responsibility of the Contractor to locate the existing structure both as to line and grade, before it starts to lay the proposed conduit, in order to assure compatibility with line and grade of the proposed conduit. Payment for all operations described above shall be included in the unit price bid for the pertinent conduit item.

All buried utilities shall be verified prior to excavating.

During construction, the Contractor shall report immediately to the Engineer, Owner and the owner(s) of the underground facilities any break or leak in the facilities, or any dent, gouge, groove or other damage. The contractor shall notify nearby occupants of any emergency situation that may arise.

Coordination of work schedules with affected utilities will be required. Upon the Contract award, the coordination of all necessary relocation or adjustment of all utility facilities becomes the sole responsibility of the Contractor.

8. ROAD RESTORATION

Road restoration and rules governing work along highway rights-of-way shall be in accordance with Kentucky Transportation Cabinet (KYTC) Rules and Regulations.

9. SUBMITTALS

Contractor shall submit shop drawings, Manufacturer's specifications, mix designs and/or certifications for approval for the following items:

Concrete and asphalt mix designs

MISCELLANEOUS HARDWARE AND MATERIALS

Fence Fabric for Alternate- 1.

Fence post paint specifications for Alternate -1.

Acrylic coating specifications.

Tennis net system including posts, tensioners assemblies and hardware.

Gates.

Diagram showing striping plan for tennis and pickle ball courts.

ADA plaques and signage.

Catch basin grate if required.

SAMPLES

Acrylic Surface Colors Coatings and Striping Paint for tennis courts.

Fence post paint Alternate-1.

10. TRAFFIC MAINTENANCE AND SAFETY

The contractor shall provide sufficient signs, fencing, warning lights, barricades, or other necessary devices to make the site safe and secured to the public. Every reasonable effort shall be made by the Contractor to keep all roads and streets open at all times. Any proposed closures shall first be approved, in writing, by the Owner prior to the commencement of work. Any closure shall be signed and so designated as outlined in the Manual of Uniform Traffic Control Devices, current edition.

11. EXISTING ROAD DITCHES

Existing road ditches and drainage system shall be kept in operation during construction. Ditches disturbed during construction shall be restored to working order and existing grades.

12. SILT AND SEDIMENTATION CONTROL

Appropriate erosion and sedimentation controls per EPA/Corps of Engineers regulations must be used and maintained in effective operating condition during construction and all exposed soil and other fills must be permanently stabilized at the earliest practicable date. Restoration and revegetation of the disturbed areas shall proceed with project progression. Where complete restoration is not possible temporary seeding shall be utilized. Payment for this work is included in Site Restoration.

13. SITE RESTORATION

Restoration of disturbed areas shall proceed with the job progression. Grading and seeding shall take place on a section-by-section basis as soon as practicable. Particular attention shall be given to residences. A residential yard shall be restored within thirty (30) days after construction, weather permitting.

14. OPEN TRENCHES

Due to the urban location of this project, no trenches shall remain open any longer than necessary.

15. PIPE CERTIFICATION

Manufacturers certification for pipe shall be submitted before delivery of pipe attesting that the pipe to be furnished has passed the applicable A.S.T.M specification.

If the pipe is delivered without certification, the Contractor shall, at his expense: (a) have the pipe tested at an approved independent testing laboratory. Testing shall be in accordance with the applicable A.S.T.M specification or (b) remove the pipe from work site and provide the necessary pipe in accordance with the specifications.

Pipe certification shall refer to a lot number or other identifying marking on the pipe to enable positive correlation between the delivered pipe and the pipe described in the certification.

16. BURNING AND BLASTING

No burning of materials or cleared items will be permitted within the City of Fort Mitchell. No blasting of any kind will be permitted on this project.

17. FIELD STAKING

Construction staking to be provided by the Contractor. Engineer to provide site survey control and a benchmark as needed.

18. WEIGH TICKETS

The Contractor shall provide to the Engineer/Owner, weigh tickets, or delivery tickets, verifying the quantity of aggregate, asphalt and/or concrete delivered to the project.

19. PRECONSTRUCTION MEETING

Prior to beginning any work on the project, the Contractor shall schedule and have a pre-construction meeting with the City Public Works Director, the City Engineer, and appropriate utility companies at least

one week prior to beginning construction to discuss the schedule and pertinent items for this project.

20. OBSERVATION AND CONTROL

All work herein shall be performed under the constant and continuous supervision of the authorized representative of the Owner. No work shall commence until the Owner or his representative has been contacted.

21. COOPERATION WITH THE TESTING LABORATORY

The contractor shall at any and all times make the site and the specific area or work, available to the representative(s) of the testing laboratory. Access shall be provided in order that the laboratory may properly perform its function(s). The Owner will pay for the required testing, however, when an initial test fails (indicates non-compliance with the Contract Documents), all subsequent retesting caused by the non-compliance, shall be performed by the same agency and the additional costs paid by the Contractor.

22. DUST CONTROL

The Contractor shall exercise care in controlling dust and protect persons and property from discomfort or damage caused by work under any section of the plans or specifications. The contractor shall sprinkle, as necessary, with water, to prevent the spread of dust. This work shall be performed as directed by the engineer and shall be incidental to the contract and no additional payment will be made.

23. SUBSURFACE CONDITIONS

Bids of all Contractors and Subcontractors shall include excavating, trenching and grading down to the levels necessary to perform the work shown on the plans, regardless of the nature of the materials to be handled. It should be noted that: NO ADDITIONAL PAYMENT SHALL BE MADE FOR ANY ROCK CONDITION ENCOUNTERED BY THE CONTRACTOR. This clause shall apply to open cuts, bore and jack operations, pushing laterals, etc.

24. TIME FOR COMPLETION

Upon award of the contract, the Contractor shall furnish, to the Engineer, a construction schedule. This schedule shall be in keeping with all sections of the plans and specifications. It shall be provided, based upon the stated completion time, before any work commences. The schedule shall conform to any special details or requirements of the project and shall meet the approval of the Engineer and Owner.

25. PAY ITEMS

The items listed in the Proposal constitute the pay items on this contract. Any other items of work listed in the specifications shall be considered incidental to the listed pay items and include, but are not limited to, the following:

- Investigative trenching to expose existing utilities. Compacted and consolidated backfill.
- Removal of trees and other natural obstructions.
- Site restoration, except as provided for in these specifications.
- Testing. Rock excavation. Sawcutting.

26. INITIAL PHOTOGRAPHY

The Contractor shall photograph, either by still frame or video camera, the surface area (ground cover) above each run of pipe to be removed and replaced, grading, driveways, trenching, or other areas of construction prior to commencement. Photographs shall be taken from each proposed manhole, inlet box, etc. to the next. All structures such as patios, fences, houses, outbuildings, and other man-made features, within the area, which **may be** affected by the construction, shall be recorded on film. Special effort shall

be taken to show existing foundations, walls, steps, sidewalks, driveways, etc. All nearby trees and other landscape items shall also be photographed. All retaining walls and driveways shall be photographed. The centerline of the street project shall also be photographed, in detail, to show any special considerations.

If still frame photography is used, the Contractor shall label each picture with the following data: 1) The location from which the photograph is taken, 2) The direction that the photograph is taken, 3) The subject of the photograph, 4) The date and time of the photograph, and 5) the condition and any other pertinent information. If video photography is used, all of the information shall be recorded, on the tape, in voice, at the time of the photography.

If during construction, there are items of work, which have the potential to damage property, they shall be photographed as the work progresses.

The Contractor shall retain at least one copy of the photographs or videotapes and shall forward at least one copy to the Engineer. This work shall be completed prior to mobilization of any equipment. This work shall be considered incidental to the contract and no additional payment will be made.

27. MUD, DUST, AND DEBRIS

The Contractor shall keep the adjacent streets and driveways free of all mud and debris at all times during construction. At no time will mud tracked from the site by the Contractor's vehicles be permitted to remain on the streets. If any material is tracked, the Contractor shall immediately manually shovel the area. Finally, the area shall be broomed clean. If the above methods fail to keep the street clean, the Contractor shall, at his expense, rent a meter from the Northern Kentucky Water District and attach hoses to the nearest fire hydrant to flush the street. In no case shall the Contractor be permitted to utilize water obtained from a resident in the affected area(s).

The required operations to keep the street clean from tracked mud and debris shall be at the expense of the Contractor. No additional payment will be made for this work.

The Contractor holder shall do everything possible to minimize dust mud, dirt, and debris, and to keep the appearance of the area surrounding the street opening in good order. The Contractor holder shall use calcium chloride or equal to keep dust to a minimum so as to eliminate the airborne particles from affecting adjacent properties. If approved by the Owner, in order to minimize dust, Contractor may utilize water trucks or hoses attached to existing fire hydrants provided that it either supplies its **own water** (in the trucks) or obtains a meter from the Northern Kentucky Water District.

The required operations to prevent airborne dust pollution shall be at the expense of the Contractor. No additional payment will be made for this work.

If in the opinion of the City's representative, effective prevention is not practiced, by the contractor, and mud, dust, and debris is allowed to collect on the adjacent streets, notification will be sent to the contractor. This notification, requesting action, may be verbal or written. Failure to immediately comply with this section will result in the City performing the street cleaning. In the event of this occurrence, the contractor will be charged \$125.00 per hour for a street sweeper, backhoe, and/or bobcat; and \$50.00 per hour for a dump truck, plus the cost of the operators. The minimum billing will be for two (2) hours.

Should the City be required to clean streets as a result of the contractor, the charges will be deducted from the next Contractor's Pay Request. If there are further Requests, the monies will be deducted from the retainage held by the City. Also, the contractor may be cited by the Fort Mitchell Police Dept. by ordinance(s) prohibiting tracking mud, dust, and debris onto city streets and rights of way.

28. FINAL CLEANING UP

As soon as portions of the work are ready for use, the project area shall be thoroughly cleaned by the

Contractor of all dirt and rubbish, and cleared of all materials, forms, falsework, temporary structures, and equipment. The Contractor shall also clean out all sewer drains, inlets, manholes and other underground lines and structures built by him or affected by its work.

29. FORT MITCHELL CODE SECTIONS

Any and all street cutting, restoration, cleaning, trenching, excavating, maintenance of traffic and hours of operations, shall be done in accordance with all applicable laws of the Fort Mitchell Code of Ordinances.

TECHNICAL SPECIFICATIONS

1. RESTORATION

Upon completion of construction, the contractor shall restore the work site to a condition equivalent to that as existed before he started work.

The nonpaved areas which are disturbed shall be restored per the section “Hydraulically-applied erosion control and seeding: High performance- flexible growth medium (hydroseeding)

All disturbed paved areas shall have the trench backfill trimmed to subgrade level, base course placed and compacted and pavement placed as shown in plans details.

The pavement structure shall be equal to that of the existing pavement structure, but not less than shown on the plans, whichever is greater.

When all construction work has been completed and restoration undertaken, the work site shall be cleaned up and all machinery, tools, surplus construction materials, surplus excavated materials, temporary buildings and debris removed and satisfactorily disposed of. Surplus excavated materials, including rock, may be disposed of along unimproved easements, but only as approved by the Engineer or Owner. The Contractor shall be responsible for the proper restoration and seeding in these areas at no additional cost to the Owner. Rock will be used primarily for erosion control. Any existing ditches or watercourses, culverts, or similar facilities that are filled, clogged or damaged due to the construction work shall be cleaned and repaired to a condition satisfactory to the Engineer.

2. HYDRAULICALLY-APPLIED EROSION CONTROL AND SEEDING: HIGH PERFORMANCE-FLEXIBLE GROWTH MEDIUM (HYDROSEEDING)

Scope of Work

- A. This section specifies the hydraulically-applied erosion control product Flexterra® High Performance-Flexible Growth Medium™ (HP-FGM™). Flexterra HP-FGM is 100% biodegradable, made in the United States and composed of 100% recycled, thermally refined (within a pressurized vessel) virgin wood fibers, crimped interlocking biodegradable fibers, mineral activators, and wetting agents (including high-viscosity colloidal polysaccharides, cross-linked biopolymers and water absorbents). The HP-FGM is phytosanitized, free from plastic netting, requires no curing period and upon application forms an intimate bond with the soil surface to create a continuous, porous, absorbent and flexible erosion resistant blanket that allows for rapid germination and accelerated plant growth. **Seeding for the baseball field area shall be complete in the spring during the months from April through June.**
- B. Related Sections: Other Specification Sections, which directly relate to the work of this Section include, but are not limited to the following:
1. *Section 01 57 00 – Temporary Erosion and Sediment Control*
 2. *Section 02 24 23 – Chemical Sampling and Analysis of Soils*
 3. *Section 31 00 00 – Earthwork*
 4. *Section 31 91 00 – Planting Preparation*
 5. *Section 32 01 90.16 – Amending Soils*
 6. *Section 32 92 00 – Turf and Grasses*

Submittals

- A. Product Data: Submit manufacturer’s product data and installation instructions. Include required substrate preparation, list of materials and application rate.
- B. Certifications: Manufacturer shall submit a letter of certification that the product meets or exceeds all technical and packaging requirements and is made in the U.S.A.

Delivery, Storage and Handling

- A. Deliver materials and products in UV and weather-resistant factory labeled packages. Store and handle in strict compliance with manufacturer’s instructions and recommendations. Protect from damage, weather, excessive temperatures and construction operations.

Acceptable Growth Medium Manufacturer

- A. PROFILE Products LLC
750 Lake Cook Road – Suite 440
Buffalo Grove, IL 60089
International - +1-847-215-1144
United States and Canada – 800-366-1180 (Fax 847-215-0577)
www.profileproducts.com

Materials

- A. The HP-FGM shall be Flexterra HP-FGM and conform to the following typical property values when uniformly applied at a rate of 3,500 pounds per acre (3,900 kilograms/hectare) under laboratory conditions.

| Property | Test Method | Tested Value (English) | Tested Value (SI) |
|-----------------------------------|----------------------------------|-------------------------------|-------------------------------|
| Physical | | | |
| Mass Per Unit Area | ASTM D6566 ¹ | ≥ 11.6 oz/yd ² | ≥ 390 g/m ² |
| Thickness | ASTM D6525 ¹ | ≥ 0.22 inch | ≥ 5.6 mm |
| Ground Cover | ASTM D6567 ¹ | ≥ 99% | ≥ 99% |
| Water Holding Capacity | ASTM D7367 | ≥ 1,700% | ≥ 1,700% |
| Material Color | Observed | Green | Green |
| Cover Factor ² | Large Scale Testing ⁴ | ≤ 0.01 | ≤ 0.01 |
| % Effectiveness ³ | Large Scale Testing ⁴ | ≥ 99% | ≥ 99% |
| Cure time | Observed | 0 - 2 hours | 0 - 2 hours |
| Vegetation Establishment | ASTM D7322 ¹ | ≥ 800% | ≥ 800% |
| Functional Longevity ⁵ | ASTM D5338 | ≤ 18 months | ≤ 18 months |
| Ecotoxicity | EPA 2021.0 | 48-hr LC ₅₀ > 100% | 48-hr LC ₅₀ > 100% |
| Effluent Turbidity | Large Scale Testing ⁴ | ≤ 250 NTU | ≤ 250 NTU |
| Biodegradability | ASTM D5338 | Yes | Yes |

1. ASTM test methods developed for Rolled Erosion Control Products and have been modified to accommodate Hydraulically-Applied Erosion Control Products.
2. Cover Factor is calculated as soil loss ratio of treated surface versus an untreated control surface.
3. % Effectiveness = One minus Cover Factor multiplied by 100%.
4. Large scale testing conducted at Utah Water Research Laboratory. For specific testing information please contact a Profile technical service representative at 800-508-8681 (US and Canada) or +1-847-215-1144 (International).
5. Functional Longevity is the estimated time period, based upon ASTM D5338 testing and field observations, that a material can be anticipated to provide erosion control and agronomic benefits as influenced by composition, as well as site-specific conditions, including; but not limited to – temperature, moisture, light conditions, soils, biological activity, vegetative establishment and other environmental factors.

- B. Fertilizer shall be 12-12-12, or an equal starter fertilizer approved by the landscape architect, and shall be applied at the manufacturer’s specified rate.

- C. The following seed mixture shall be used unless otherwise specified: Turpin Farms 1785 Low Impact Turf - Drought, heat, insect, and disease resistant, good in shade. The seed shall be sown at a rate of eight to ten (8-10) PLS per one thousand (1,000) square feet or 350- 440 PLS per acre.

Composition

- A. All components of the HP-FGM shall be pre-packaged by the Manufacturer to assure both material performance and compliance with the following values. Under no circumstances shall field mixing of components be permitted. No chemical additives with the exception of fertilizer, soil neutralizers and biostimulant materials should be added to this product.
 - 1. Thermally Processed* (within a pressurized vessel) Virgin Wood Fibers – 80%
 - *Heated to a temperature greater than 380 degrees Fahrenheit (193 degrees Celsius) for 5 minutes at a pressure greater than 50 psi (345 kPa)
 - 2. Wetting agents (including high-viscosity colloidal polysaccharides, cross-linked biopolymers, and water absorbents) – 10%
 - 3. Crimped Biodegradable Interlocking Fibers – 5%
 - 4. Micro-Pore Granules – 5%

Packaging

- A. Bags: Net Weight – 50 lb (22.7 kg), UV and weather-resistant plastic film
Pallets: Weather-proof, stretch-wrapped with UV resistant pallet cover
Pallet Quantity: 40 bags/pallet or 1 ton (909 kg)/pallet

Soil Testing

- A. Soil Samples shall be taken and sent to a third-party, independent lab for analysis and in compliance with Section 02 24 23 – Chemical Sampling and Analysis of Soils, if applicable.
- B. The tests shall include analysis and interpretation of results.
- C. The soil testing methods used shall be compliant with recognized agronomic testing standards, as outlined in Section 02 24 23, for revegetation of disturbed sites.
- D. Soil Analysis shall include results for:
 - 1. Soil pH
 - 2. Soluble Salts
 - 3. Excess Carbonate
 - 4. Organic Matter
 - 5. Nutrient readings for:
 - i. Nitrogen, Phosphorus, Potassium
 - ii. Magnesium, Calcium, Sodium, Manganese, Sulfur, Zinc, Copper, Iron, Boron
 - 6. Cation Exchange Capacity
 - 7. Percent Base Saturation Sodium
- E. ProGanics® BSM, BioPrime™, JumpStart™, Aqua-pHix™ and NeutraLime™ Dry or other amendments shall be specified according to Section 32 01 90.16 – Amending Soils and applied with the hydroseeding slurry at Manufacturer recommended rates based on soil test results.

Substrate and Seedbed Preparation

- A. Examine substrates and conditions where materials will be applied. Apply products to geotechnically stable slopes that have been designed and constructed to divert runoff away from the face of the slope. Do not proceed with installation until satisfactory conditions are established.
- B. Depending upon project sequencing and intended application, prepare seedbed in compliance with other specifications under Section 1.01 B

Installation

- A. Strictly comply with equipment manufacturer's installation instructions and recommendations. Use approved hydroseeding machines with fan-type nozzle (50-degree tip). To achieve optimum soil surface coverage, apply HP-FGM from opposing directions to soil surface. Rough surfaces (rocky terrain, cat tracked and ripped soils) may require higher application rates to achieve 100% cover. Slope interruption devices or water diversion techniques are recommended when slope lengths (3H:1V) exceed 100 feet (30 m). Slope interruption intervals may need to be decreased based on steeper slopes or other site conditions. HP-FGM is not recommended for channels or areas with concentrated water flow unless used in conjunction with a rolled erosion control product designed to accommodate the anticipated hydraulic conditions. Unless approved by the Manufacturer, no chemical additives with the exception of fertilizer, soil neutralizers and biostimulant materials should be added to this product.
- B. For Erosion Control and Revegetation: To ensure proper application rates, measure and stake area. For maximum performance, apply HP-FGM in a two-step process*:
1. *Step One: Apply fertilizer with specified prescriptive agronomic formulations and typically 50% of specified seed mix with a small amount of HP-FGM for visual metering. Do not leave seeded surfaces unprotected, especially if precipitation is imminent.*
 2. *Step Two: Mix balance of seed and apply HP-FGM at a rate of 50 lb per 125 gallons (22.7 kg/475 liters) of water over freshly seeded surfaces. Confirm loading rates with equipment manufacturer.*

**Depending upon site conditions HP-FGM may be applied in a one-step process where all components may be mixed together in single tank loads. Consult with Manufacturer for further details.*

Best results and more rapid curing are achieved at temperatures exceeding 60°F (15°C). Curing times may be accelerated in high temperature, low humidity conditions with product applied on dry soils.

- C. Mixing: A mechanically agitated hydroseeding machine is strongly recommended:
1. *Fill 1/3 of mechanically agitated hydroseeder with water. Turn pump on for 15 seconds and purge and pre-wet lines. Turn pump off.*
 2. *Turn agitator on and load low density materials first (i.e. seed).*
 3. *Continue slowly filling tank with water while loading fiber matrix into tank.*
 4. *Consult application and loading charts to determine number of bags to be added for desired area and application rate. Mix at a rate of 50 lb of HP-FGM per 125 gallons (22.7 kg/475 liters).*
 5. *All HP-FGM should be completely loaded before water level reaches 75% of the top of tank.*
 6. *Top off with water and mix until all fiber is fully broken apart and hydrated (minimum of 10 minutes — increase mixing time when applying in cold conditions). This is very important to fully activate the bonding additives and to obtain proper viscosity.*
 7. *Add fertilizer and any other remaining amendments.*
 8. *Shut off recirculation valve to minimize potential for air entrainment within the slurry.*
 9. *Slow down agitator and start applying with a 50-degree fan tip nozzle.*
 10. *Spray in opposing directions for maximum soil coverage.*
- D. Application Rates: These application rates are for standard conditions. Application rates may need to be increased to accommodate very rough surfaces.

| Slope Gradient / Condition | English | SI |
|-----------------------------------|----------------|-------------|
| ≤ 4H to 1V | 2,500 lb/ac | 2,800 kg/ha |
| > 4H to 1V and ≤ 3H to 1V | 3,000 lb/ac | 3,400 kg/ha |
| > 3H to 1V and ≤ 2H to 1V | 3,500 lb/ac | 3,900 kg/h |
| > 2H to 1V and ≤ 1H to 1V | 4,000 lb/ac | 4,500 kg/ha |
| > 1H to 1V | 4,500 lb/ac | 5,100 kg/ha |
| Below ECB or TRM | 1,500 lb/ac | 1,700 kg/ha |
| As infill for TRM* | 3,500 lb/ac | 3,900 kg/ha |

*Use only approved and tested Futerra® Turf Reinforcement Mats (TRMs) to create the GreenArmor™

System

For additional details including mixing ratios/loading rates for specific machine sizes and visual keys for proper application, please consult Profile® Application Guide for HP-FGM™ and ET-FGM™.

Cleaning and Protection

- A. After application, thoroughly flush the tank, pumps and hoses to remove all material. Wash all material from the exterior of the machine and remove any slurry spills. Once dry, material will be more difficult to remove.
- B. Clean spills promptly. Advise owner of methods for protection of treated areas. Do not allow treated areas to be trafficked or subjected to grazing.

Inspection and Maintenance

- A. All inspections and maintenance recommendations shall be conducted by qualified professionals consistent with the owner, engineer/specifier and regulatory entity(ies) expectations.
- B. Initial inspections shall insure installations are in accordance with the project plans and specifications with material quantities and activities fully documented. Refer to Section 32 92 00 – Turf and Grasses for any additional details.

Subsequent inspections shall be conducted at pre-determined time intervals and corrective maintenance activities directed after each significant precipitation or other potentially damaging weather or site event

3. HOT-POURED ELASTIC SEALING COMPOUND

All joints, edges, and keyways shall be sealed as soon as practical. Do not seal any joints until the Engineer inspects and approves them for sealing. Before applying the sealer, completely clean all joints of all loose scale, laitance, oils, greases, dirt, and other foreign substances, and remove all free water and loose particles by jetting with compressed air. The compound shall meet Federal Specification SS-S-169. The material used for filling and sealing joints shall be a Meadows #164 hot pour rubber asphalt sealer, Meadows hi-spec hot pour joint sealing compound or approved equal per AASHTO M173 or ASTM D1190, D3405.

4. MASTIC SEALING COMPOUND

Where the Engineer requires or orders a mastic compound used in any joint, the compound shall be an asphaltic, plastic cement. Lloyd A. Fry Roofing Company Cement No., 33 shall be considered standard.

5. RESILIENT JOINT MATERIALS

All resilient materials for joint closures shall conform to A.S.T.M. Specifications C-425 and C-433. The type shall be as specified under the construction units, unless otherwise specified.

6. UNDERDRAIN ROCK

Rock for trench under drainage shall consist of washed crushed rock or gravel of the following sizes:

| | 100% Passed By Sieve Size | 100% Retained On Sieve Size |
|----------------------|------------------------------|--------------------------------|
| 12" Pipe and Smaller | 1/2" | #4 |
| 15" Pipe thru 18" | 1" | #4 |
| 21" Pipe thru 30" | 2" | #4 |
| 33" Pipe and Larger | 3" | #4 |

7. UNDERDRAIN SYSTEMS

As directed by the City Engineer in all instances where the pipe bedding can act as a "French Drain", such

as low points underneath pavements, curbs, adjacent to inlet structures and manholes, etc. the collected water must be drained from the bedding and trench by means of a suitable pipe. In some instances, a four-inch diameter "sock pipe" shall be constructed in the trench to collect the water. This "sock pipe" shall then be drained into a storm facility such as an inlet or a manhole. If no structure is available, the pipe may be day-lighted with the proper headwall constructed at its terminus.

8. ASPHALT PAVEMENT – PER KENTON COUNTY SUBDIVISION REGULATIONS AND KYTC STANDARDS

Asphalt Mixtures

- A. Asphalt mixtures, composition, and construction for base and surface course materials shall conform to the Kentucky Transportation Cabinet, Department of Highways', requirements for Asphalt Mixtures and Asphalt Plant Requirements, latest edition.

Asphalt Base Course

- A. Asphalt base course shall conform to the Kentucky Transportation Cabinet, Department of Highways' Mixture Designation Class 2.
- B. The mixture shall have a nominal maximum aggregate size of three-quarters (3/4) inch with a minimum Voids of Mineral Aggregate (VMA) of 12%.
- C. Asphalt shall be compacted and tested to a density between 91% and 96% of the theoretical mix density as determined by a qualified/recognized geotechnical engineer.

Asphalt Surface Course

- A. Asphalt surface course shall conform to the Kentucky Transportation Cabinet, Department of Highways' Mixture Designation Class 2.
- B. The mixture shall have a nominal maximum aggregate size of three-eighths (3/8) inch with a minimum Voids of Mineral Aggregate (VMA) of 14%.
- C. Asphalt shall be compacted and tested to a density between 91% and 96% of the theoretical mix density as determined by a qualified/recognized geotechnical engineer.
- D. Prior to the surface course application, Staff shall inspect the asphalt base course. Damage to the asphalt base course that will affect the structural integrity or future maintainability of the pavement section shall be repaired prior to placement of the surface course.
- E. Damage to Curb and gutter sections identified by Staff that will affect the structural integrity and/or future maintainability of the Curb and gutter shall be removed and replaced prior to the placement of surface asphalt course.
- F. The joint between Curb and gutter and asphalt pavements shall be sealed.
- G. The surface course shall be compacted to a minimum of one-fourth (1/4) inch above adjacent Curb and gutter construction.

Asphalt Testing

- A. A qualified/recognized geotechnical engineer shall conduct an asphalt extraction in the field during the paving operation to determine Voids of Mineral Aggregate (VMA).
 - 1. A minimum of one asphalt extraction shall be obtained per 500 tons of asphalt placement.
- B. Asphalt mixes shall be tested by a qualified/recognized geotechnical engineer to determine density.
 - 1. Cores shall be taken by a qualified/recognized geotechnical engineer for each course every 300 feet alternating lanes.
 - a. The inspector shall determine core locations and mark in the field.
- C. All test results shall be submitted to staff prior to approval of a final plat or release of a performance bond.

Weather Limitations

Asphalt plant mix shall not be placed on any wet surface, when the ambient air temperatures on the project are less than those specified in the following table, or when weather conditions otherwise prevent the proper handling or finishing of the asphalt mixtures, unless written approval of the construction manager is provided.

| <u>Asphalt Mixtures</u> | <u>Temperature for Placing</u> |
|---|--------------------------------|
| Sand Asphalt Type I or II | 60 Degrees F |
| Open-Graded Friction Courses (OGFC) | 60 Degrees F |
| Asphalt Mixture, Surface (1" thick or less) | 45 Degrees F |
| Asphalt Mixture, Surface (thicker than 1") | 40 Degrees F |
| Asphalt Mixture, Base and Binder | 35 Degrees F |
| Leveling and Wedging | 45 Degrees F |
| Asphalt Mixture for Pavement Wedge | 40 Degrees F |
| Asphalt – Treated Drainage Blanket | 35 Degrees F |

9. CONCRETE - PER KENTON COUNTY SUBDIVISION REGULATIONS AND KYTC STANDARDS

Materials

A. Concrete

All concrete shall be 4,000 psi, 6 Bag Mix (564 lbs of cement per cubic yard) with crushed limestone aggregates. No Pea Gravel or Round River gravels are permitted. All water used in concrete mixes shall be clean and free from oil, salt acid, alkali, sugar, organic and deleterious matter. No admixtures other than those integrally supplied with cement shall be used or allowed, except as specified. Fly ash shall not be used in the concrete mix design.

B. Aggregate

Aggregate within the concrete mix retained on a 3/8-inch sieve shall consist only of crushed limestone.

C. Expansion Joints

1. Expansion Joints shall be a minimum one-inch, full depth Ceremar Flexible Foam Expansion Joint or equivalent.
2. The filler shall be held accurately in place during the placing and finishing of the concrete by a bulkhead, a metal channel cap, or other approved method.
3. Expansion Joints shall be installed at the following locations:
 - a. At all Street intersections at the point of curvature of the turning radii entering the intersection; and
 - b. At cul-de-sacs or turnarounds at the point of curvature of the first turning radii approaching the turnaround; and
 - c. Transversely across the Street at the beginning and end of every Street curvature.
 - d. Transversely across the Street at intervals not to exceed 300 feet, skewed at an angle equal to two feet from the centerline to the offset at the edge of the pavement.
 - e. Between the Curb and the Driveway apron and between the Sidewalk and the Driveway.
 - i. The expansion material must be installed at the time the apron and/or Sidewalk is inspected by the City.
 - ii. On the outside of street curves and at the terminus of the street the total thickness of the expansion material shall be a minimum of three inches.
4. No concrete shall be left above the expansion material or across the joint at any point. Any concrete spanning the ends of the joint next to the forms shall be carefully cut away after the forms are removed.

D. Curing & Sealing Compound

1. All concrete placed on the project shall be cured and sealed using a Clear Liquid Membrane-Forming Compound Type 1-D per Section 823 of the KYTC Specifications and AASHTO M 148. The compound shall be both a cure and seal compound that is transparent, has low viscosity, is solvent-based and provides acrylic curing. It shall also efficiently retain moisture for freshly placed concrete, ensure proper strength development and minimizes shrinkage cracking. The material shall be placed on damp but not wet concrete as soon as practicable after place and finish of the concrete. For flat work, such as slabs, sidewalks, etc. the materials shall be placed as soon as it will not mar the finished surface. For structures, it shall be

placed as soon as the formwork is wrecked. If the concrete requires any rubbing, the curing material shall be placed as soon as the wet rubbing is completed.

2. The compounds used shall be a BASF Kure-N-Seal 25 LV, Dayton Superior Cure & Seal 25%, W.R Meadows Sealtight Seal Cure-Concrete Curing & Sealing Compound (VOC) or approve equal.

E. Sawed Joints

1. Saw cut joints shall be cut to the depth and width indicated on the plan and shall be uniform width throughout. The sawing equipment shall be capable of cutting the joint in strict conformity with the required alignment and depth, and shall be so operated.
2. Transverse saw cuts for joints to be sealed with preformed compression joint seals shall be one continuous cut across the pavement being sawed. Water may be sprayed on the saw blades during cutting. The joints shall not be sawed until the concrete has hardened to the extent that tearing and raveling will not occur, but as soon thereafter as deemed necessary to preclude random cracking. The Engineer may direct that joints shall be sawed at the time, day or night and in order or sequence that will most effectively hold random cracking to a minimum. A standby machine and a sufficient supply of saw blades shall be available at all times.
3. All sawed joints shall be thoroughly flushed with clean water or clean with compressed air immediately after sawing so the vertical surfaces of the joint will be clean and will allow proper adherence of joint sealer to the surfaces.

F. Tests

The Contractor shall furnish the Engineer, for his approval before delivery of any concrete, a certified form or letter from the concrete supplier showing the mix to be furnished with water content and air content as required by these specifications. When approved, this concrete shall be furnished and none other.

The Owner shall have strength tests, slump and air entrainment tests made as called for in A.S.T.M. Specification C-94 at a laboratory approved by the Engineer. A slump test shall be made on each load of concrete delivered to the work. Air entrainment test shall be made on all exterior concrete.

As a minimum for the strength test, one set of four cylinders for every placement of 100 cubic yards and no less than one set per day. Two cylinders shall be broken at seven days and the remaining two cylinders shall be broken at 28 days.

1. **Load Test**

If there exists evidence of poor workmanship or non-compliance with these Specifications, load tests may be required by the Engineer and shall be conducted and witnessed by the Engineer.

2. **Reports**

All tests required herein shall be reported to the Owner as well as the Engineer, in written form for the record.

3. **Payment for Testing**

The Owner shall be responsible for payment for all tests and reports as outlined in these Specifications. No separate payment will be made to the Contractor for tests or reports.

G. Plant

The Contractor shall make arrangements to have the source of supply of concrete open for inspection by the Engineer at any time concrete is planned to be or is being furnished to the work. All concrete shall be ready-mixed, meeting A.S.T.M. Specification C-94, and mixed in a central plant mixer when the plans call for concrete strength it shall require the corresponding class.

10. FLOWABLE BACKFILL

Section references herein are to the Department's current Kentucky Standard Specifications for Road and Bridge Construction. This work shall consist of furnishing and placing flowable fill as backfill material

for all types of pipe.

A. Description

Flowable fill is a low strength mixture consisting of portland cement, sand, class F fly ash, water, and other materials as approved by the Engineer. Flowable fill has a density between 3095 kg/m³ (115 lb/ft³) and 3500 kg/m³ (130 lb/ft³) and is of a consistency that will flow under and around the pipe. Flowable fill does not require compaction, finishing, or curing and will not settle after hardening occurs. It is ideal for use in restricted areas where placing and compacting fill material is difficult and where traffic cannot be delayed for a long period. When used to backfill aluminum pipe, an approved means of separation shall be provided, such as bituminous coating.

B. Materials

Ingredient materials shall meet the requirements specified in the following sections:

| | | |
|-----------------------------|-----|--|
| Portland Cement, Type I 801 | | |
| Sand | 804 | |
| Fly Ash, Class F | 844 | (Contrary to subsection 844.01, the loss on ignition shall not exceed 12%) |
| Water | 803 | |

Unless otherwise approved by the Department, flowable fill shall be proportioned as follows, per cubic meter (cubic yard):

| | |
|------------------|---------------------|
| Cement | 14 kg (30 lbs.) |
| Fly Ash, Class F | 136 kg (300 lbs.) |
| Sand (S.S.D.) | 1360 kg (3000 lbs.) |
| Water (Maximum) | 250 kg (550 lbs.) |

Other mixtures may be proposed by the Contractor. The mixtures may include other proportions of the above materials, Class C fly ash, chemical admixtures, or aggregate not conforming to the requirements of the Standard Specifications. For proposed mixtures deviating from the above-specified proportions and materials, a trial batch of at least 3.6 cubic meters (4 cubic yards) shall be made and tested to ensure that the mix will have flowability and density characteristics suitable for the intended use. The trial batch shall be made using the ingredients, proportions, and equipment that will be used on the project including batching, mixing, and delivery. For mixtures that are required to be firm within 3 hours, general guidelines are as follows:

1. The minimum flowability of the mixture shall be (8 inches) when tested with a 3-inch x 6-inch opened ended cylinder modified flow test.
2. The mixture shall begin bleeding freely with 10 minutes.
3. The mixture shall achieve firmness within 3 hours to support 68 kg. (150 lbs.).

City personnel will observe all phases of the trial batching for approval. The proposed mixture proportions and test results for the minimum flowability, time of bleeding, and time to achieve firmness shall be submitted to the Engineer for review and approval. The Contractor shall be responsible for determining if a proposed mixture is proprietary. When the mixture is determined to be proprietary, the Contractor shall comply with Section 107.05.

To expedite settlement and hardening of the flowable fill, bleed water shall appear on the surface within 5 to 10 minutes after placement. The release of water by bleeding causes the solid particles to realign into intimate contact and the mixture becomes firm. A delay in bleeding indicates there are too many fines in the mixture or insufficient water. If the maximum water was added, the fly ash quantity shall be reduced in increments of 23 kg (50 lbs.) until the mixture is bleeding freely. Approximately 27 kg (60 lbs.) of sand shall be added to replace each 23 kg (50 lbs.) increment of fly ash to maintain the original yield. If two increment reductions, 45 kg (100 lbs.), do not promote free bleeding of the mixture, other possible remedies shall be evaluated. The flowable fill is too dry when cracks develop as it flows into place.

A set of test cylinders shall be cast for each (300 cubic yards) of flowable fill. Cylinders shall not be rodded, but the sides of the mold shall be tapped lightly. The test cylinders shall be allowed to bleed for about 30 minutes, refilled, and then covered with a sheet of tough durable impervious plastic or cylinder lid. Plastic shall be secured in place around the mold, within one inch of the top, with a rubber band or string prior to covering the lid with wet burlap. The burlap shall be removed after 24 hours and cured at 15.6°C (60°F) to 32.2°C (90°F), in the shade, until 28 days old. The plastic covering and mold shall then be removed and the compressive strength test shall be performed. The average of the 28 days compressive strength tests shall be 345 kPa (50 Psi) to 690 kPa (100 Psi). This strength range will provide the optimum balance of adequate cohesion while allowing ease of subsequent removal, if necessary.

C. Construction

Unless otherwise approved by the City Engineer, flowable fill shall be delivered in revolving drum truck mixers in accordance with Section 601 to ensure that the mixture is in suspension when placed. Agitation will be required during transportation and wait time. Subsidence may occur if the mixer is not agitated. Flowable fill may be placed by discharging directly from truck chutes into the trench or it may be placed by means of conveyors, buckets or pumps. If pumping is utilized the voids shall be adequately filled with solid particles to provide adequate cohesiveness for transport through the pump line under pressure without segregation.

Inadequate void filling results in mixtures that may segregate in the pump and may cause line blockage. Continuous flow through the pump line shall be maintained. Interrupted flow may cause segregation which restricts flow and may result in line blockage.

The flowable fill shall extend from the top of the compacted bedding to the bottom of the pavement structure. Flowable fill shall be in place a minimum of 2 hours prior to the addition and compaction of any material above it unless otherwise directed by the Engineer.

When flowable fill is used, the Contractor may reduce the trench width to a minimum of (6 inches) clearance on each side of the pipe. Standing water in the trench does not have to be pumped out before backfilling with flowable fill.

Because certain types of pipe may float, it may be necessary to backfill in lifts or anchor the pipe. Backfilling in lifts is generally more applicable to long lines of pipe, allowing time for a substantial amount of the water to dissipate prior to applying the next lift. Anchors may be made of small lumber or metal straps, and shall be adequately spaced. For larger diameter pipe, it may be possible to maintain a surge of flowable fill on top of the pipe to prevent floating. Floating will usually not occur after the level of the backfill is above the springline of the pipe. The Contractor shall be responsible for ensuring that the pipe remains in the correct horizontal position and at the specified elevation.

D. Basis of Payment

The cost of furnishing and placing flowable fill as backfill material for pipe shall be incidental to the bid items provided.

MEASUREMENT AND PAYMENT

1. GENERAL

PARTIAL PAYMENTS

If satisfactory construction progress is being made, the Contractor will prepare once a month, a just and fair estimate which shall represent its opinion of the amount and value of the work done and materials incorporated in the work to be reviewed by the Engineer/Architect. Partial payments to the Contractor for work performed shall be made at 90% of the value of the work until the project is complete. All materials delivered to the site and approved for the project shall be paid for at 90% of value until the project is complete. The Owner will retain not less than 10% of each of the Contractor's estimates. Such retainage shall be held by the Owner during the construction period and shall be paid to Contractor according to terms set forth below relating to Acceptance and Final Payment. Monthly payments will be approximate only and shall be subject to correction in the final estimate and final payment.

Partial payments may be reduced or withheld entirely if, in the opinion of the Owner or Engineer/Architect, construction is not proceeding according to the Contract, or if for any other violation of the Contract, or for failure of the Contractor to comply with orders of the Engineer/Architect, or pending settlement of claims or liens filed against the Contractor. Additionally, if the Engineer considers it expedient not to have the Contractor correct work unsatisfactory or not in accordance with the Contract, an equitable deduction, based on the judgment of the Engineer, is to be made from the Contract price.

WAIVER OF MECHANIC'S LIEN

Beginning at 60% of project completion, Contractor shall submit with each application for payment, waivers of mechanics' liens from subcontractors and/or suppliers and from every entity who may lawfully be entitled to file a mechanic's lien arising out of the Contract and related to the work covered by the payment.

PRICES

Subject to the terms set forth herein, the Owner will pay to the Contractor the prices herein stipulated as full compensation for everything furnished and work completed by the Contractor under the Contract, which includes all incidental work required but not specifically mentioned, and for any work arising from any unforeseen obstruction or difficulty encountered in the prosecution of the Work, and for all risks of every description connected with the Work, and for all expenses incurred by or in consequence of the suspension or discontinuance of the Work, as herein specified and for well and faithfully completing the Work, together with remedying all defects developing during the guarantee period.

Quantities of material used shall agree with the weigh tickets collected by the Inspector on the project. In addition, quantities paid for under this contract shall not exceed the specified application.

MODIFICATION OF CONTRACT

Items of Work not included in the estimate of the original Contract and being in excess of \$5,000, shall be authorized only as the Modification of the Contract.

The Owner may, when necessary, authorize alterations or modifications in the Specifications and Plans for the Work or omit from the Work covered by this Contract any portion thereof. Before any such alteration or modification shall be effective, the price to be paid for the Work or the material, or both, under the altered or modified Contract shall have been agreed upon in writing and signed by the Contractor and by the Contractual Agent or Agents of the Owner. It is expressly agreed that such changes shall not, in any way, violate or annul the Contract, and the Contractor hereby agrees not to claim or bring suit for any damages, whether for loss of profits or otherwise, on account of these changes. Whenever, during the progress of the

Work, any change or modification of the Work is agreed upon, such change shall be considered and treated as though originally contracted and shall be subject to all provisions of the original contract.

EXTRA WORK

Items of work not included in the estimate of the original Contract in an amount of \$5,000 or less shall be designated as Extra Work and shall be authorized in writing by the Engineer. Items of Work in excess of the preceding stated amounts shall be considered as a Modification of the Contract and shall be handled as set forth above.

Any Modification or Extra Work, which involves the addition of items not included in the original Contract, shall be paid for on the basis of actual prevailing wage cost of labor, materials, equipment and insurance in accordance with the requirements of KDOT Spec. 109.04.

PLANS AND ESTIMATE - MEASUREMENTS

The Plans and Estimate of Quantities prepared by the Engineer/Architect and approved by the Owner are intended to outline the Work to be done by the Contractor. It is understood and agreed, however, that the Plan is subject to minor changes from time to time during the progress of the Work, that the estimated quantities listed in the Proposal sheet are approximate only, that the Contractor has no claim for damage and is not entitled to extra pay above and beyond the agreed unit prices on account of increasing or decreasing the quantities, and that in measuring the work for payment to the Contractor, the Engineer shall consider only the number, length, area and solid contents of the various items of Work incorporated in the improvement in accordance with the Plans or as ordered placed by the Engineer.

ACCEPTANCE AND FINAL PAYMENT

Upon notice that the work is ready for final inspection and acceptance, the Engineer/Architect shall make such inspection and when he finds the work acceptable under the Contract and the Contract fully performed, he shall promptly issue a "Final Certificate" over his signature stating effect that the work provided for in the Contract has been satisfactorily completed and is accepted.

The balance due to the Contractor, including the percentage retained during the construction period, shall be paid to the Contractor by the Owner on or about thirty (30) days after the date of the Engineer/Architect issuance of the "Final Certificate".

Before issuance of "Final Payment", the Contractor shall submit satisfactory evidence, including affidavits, to the Owner that all payrolls, materials bills, and other indebtedness connected with the work have been paid.

In making "Final Payment" to the Contractor, all charges for liquidated damages or other charges, as are provided for in the Contract and these specifications, that may be due to the Owner shall be deducted.

GUARANTEE

The Contractor's work under the Contract shall be guaranteed consistent with the provisions of paragraph 12 of the General Conditions.

The Contractor shall furnish all necessary labor, materials, and equipment to perform all work as indicated on the plans and/or in the specifications at the unit or lump sum prices stated in the proposal for the items set forth herein.

PROPOSAL

DATE: _____

Note: All forms contained herein shall be completed in full, be properly executed by a duly authorized representative of the bidder and shall be kept together and submitted with this bound bid packet.

1. Preamble

TO THE MAYOR AND COUNCIL
OF THE CITY OF FORT MITCHELL

MAYOR & COUNCIL:

| | | |
|----|----------------|---------------|
| I | _____ | An Individual |
| We | _____ | A Partnership |
| | Name of Bidder | A Corporation |

Address of Bidder

Phone

the undersigned, as bidder, proposes to furnish all necessary labor, machinery, tools, apparatus, materials, equipment, service, and other necessary supplies, in strict accordance with the terms and conditions of the specifications and Contract Documents hereto attached and the plans for the construction of the following:

**GENERAL ORMSBY MITCHEL PARK IMPROVEMENTS – TENNIS COURT
IMPROVEMENTS
FORT MITCHELL, KENTUCKY**

2. Examination of Site

The Bidder declares that he has examined the site of the work and informed himself fully in regard to all conditions pertaining to the place where work is to be done; that he has examined the plans, specifications and contract documents for the work, and has read all special provisions furnished prior to opening of the bid; and that he has satisfied himself relative to the work to be performed.

The Bidder further declares that his bid is based solely on his own appraisal of the conditions under which the work is to be performed based on his investigations of the site of work, and on the plans, including any addenda or other special provisions that may be issued prior to opening of the bid, and that no statements have been verified by the City of Fort Mitchell except through a properly issued addendum.

Bidder acknowledges receipt of the following addenda and have included their provisions in this Bid:

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

3. **Bid Schedule**

| ITEM # | ITEM DESCRIPTION | UNIT | UNIT PRICE | TOTAL PRICE |
|--------|---|----------|------------|-------------|
| 1. | Mobilization/Evaluation | LS | \$ | \$ |
| 2. | Demolition of Existing Tennis Court Equipment Remove equipment and fence fabric where required. Fence fabric and posts other than what is included in Item #16 to be reused or replaced in kind as needed. | LS | \$ | \$ |
| 3. | Site Concrete Replace entrance concrete sidewalk and install ADA Curb Ramp. (230 SF of sidewalk and 10 LF of curb) | LS | \$ | \$ |
| 4. | Full Depth Asphalt Pavement Replacement See detail. Major cracks shall receive full depth repairs. Locations to be confirmed with engineer. | 100 LF | \$ | \$ |
| 5. | Existing Surface Preparation Prepare existing court surface for resurfacing. | LS | \$ | \$ |
| 6. | Asphalt Tack Coat | 240 GAL | \$ | \$ |
| 7. | Asphalt Leveling Course 1/2" with Aramid Fibers | 2,400 SY | \$ | \$ |
| 8. | Asphalt Surface Course 1-1/2" with Aramid Fibers | 2,400 SY | \$ | \$ |
| 9. | Clean and Prepare New Asphalt for Acrylic Coating Clean and prepare new asphalt with blowers, scrapers, brooms, pressure spray, etc. where needed. | LS | \$ | \$ |
| 10. | Install Multi Coat Acrylic Surface System System shall be Sport Master or equivalent product with two (2) acrylic resurfacer coatings and two (2) color coatings. | 2,400 SY | \$ | \$ |
| 11. | Adjust Catch Basin to Grade Adjust to finish grade. Grout and seal as necessary. | 1 EA | \$ | \$ |
| 12. | Nets/Posts Install three (3) sets of net hardware with in-ground posts and net tensioners and all required equipment. | LS | \$ | \$ |
| 13. | Install Playing Lines to USTA Specifications The court(s) will be laid out and taped off; a primer (Stripe Rite) will be installed to prevent bleeding under the tape, and two coatings of textured white line paint will be installed. | LS | \$ | \$ |
| 14. | Install Pickleball Playing Lines To USAPA specifications as described above. | LS | \$ | \$ |
| 15. | Contingency/Specialties Completed facilities must be in full ADA compliance. Cost for ADA compliance items, i.e., gates, markings, signage hardware. Includes in kind site restoration. | LS | \$ | \$ |

| ITEM # | ITEM DESCRIPTION | UNIT | UNIT PRICE | TOTAL PRICE |
|--------|--|-----------|------------|-------------|
| 16. | Remove and Replace Fencing Remove and replace with chain link fabric with below. (2" Mesh – 6 Gauge Galvanized Steel, Black Vinyl Coated) | 160 LF | \$ | \$ |
| | Total Bid | | \$ | |
| | Total Bid in Words | | | |
| | | | | Dollars |
| | | | | Cents |

| | | | | |
|-----|---|----|----|--|
| 17. | Alternate 1 Replace remaining existing fence fabric (excludes Item #16) with black vinyl fabric (see Item #16 for description) and coat posts with a satin black epoxy primer and paint system. | LS | \$ | |
| 18. | Alternate 2 Crack seal, seal coat, and re-stripe basketball court. | LS | \$ | |
| | Total Bid with Alternates 1 and 2 | | \$ | |

4. Time of Commencement and Completion

The Owner would like to substantially complete this project by **September 15, 2022**. The Bidder agrees to substantially complete the project on or before this date and only site/yard restoration, final cleanup, and punch-list items will be the remaining work to be completed after **September 15, 2022**. The Bidder agrees that prior to beginning any work he will schedule the pre-construction meeting with the Owner. **The Bidder further agrees to complete all work within 45 calendar days of the pre-construction meeting but not later than September 30, 2022.**

5. Liquidated Damages

The Bidder further understands that if the work is not completed within the specified time, liquidated damages will be deducted from the compensation otherwise due him at a rate of Five Hundred Dollars (\$500.00) per day for each day thereafter, holidays included, that work remains uncompleted.

6. Time Limit for Execution of Documents

The undersigned further agrees that, in case of failure on his part to execute the said contract and bond and deliver same to the Owner within ten (10) consecutive calendar days after written notice being given of the award of the contract, the check or bid bond accompanying this bid and the monies payable thereon shall be paid to the funds of the Owner, as liquidated damages for such failure; otherwise, the check or bid bond accompanying this Proposal shall be returned to the undersigned. In such case, the Owner shall be under no further obligation to enter into such Contract, and at the option of the Owner may be declared null and void.

7. Bid period

Contractor shall hold this bid open for a period of sixty (60) days from the date the bids were opened.

8. Bid Guaranty

Attached hereto is a certified check on _____ Bank of _____
_____ or a bid bond for the sum of _____
_____ (\$ _____), made payable to the City of Fort Mitchell. Such amount represents 5% of the Base Bid.

9. Declaration of Interest in Proposal

The undersigned, as Bidder, hereby declares that the only person or persons interested in the Proposal as principal or principals is or are named herein and that no other person than herein mentioned has any interest in this Proposal or in the Contract to be entered into; that his Proposal is made without connection with any other person, company or parties making a bid or without collusion or fraud.

10. Schedules

The following Schedules are attached hereto and incorporated herein by reference, and shall be completed by Bidder:

- A. List of Subcontractors;
- B. Current Projects which Contractor and/or Subcontractors are currently Engaged.
- C. Projects of a Similar Size and Scope that have been Completed by Contractor and/or Subcontractors within the Last Five Years.
- D. Key Personnel, Foreman, Project Manager and Supervisors of Contractor and/or Subcontractors.
- E. Anticipated Construction Schedule

SIGNED _____

BY: _____

Name

SCHEDULE C
PROJECTS OF A SIMILAR SIZE AND SCOPE THAT HAVE BEEN COMPLETED BY
CONTRACTOR AND/OR SUBCONTRACTORS WITHIN THE LAST FIVE YEARS

Projects of Similar Size & Scope -- CONTRACTOR

Projects of Similar Size & Scope -- SUBCONTRACTORS

SCHEDULE D
KEY PERSONNEL, FOREMAN, PROJECT MANAGER AND SUPERVISORS
OF
CONTRACTOR AND/OR SUBCONTRACTORS

Key Personnel, Foreman, Project Manager and Supervisors of CONTRACTOR for this Project:

Key Personnel, Foreman, Project Manager and Supervisors of SUB-CONTRACTORS for this Project:

Name of Subcontractors:

SCHEDULE E
ANTICIPATED CONSTRUCTION SCHEDULE

| <u>Phase</u> | <u>Anticipated Start Date</u> | <u>Anticipated Completion Date</u> | <u>Duration (days)</u> |
|--------------|-------------------------------|------------------------------------|------------------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

CITY OF FORT MITCHELL
GENERAL CONTRACTOR AGREEMENT
for
GENERAL ORMSBY MITCHEL PARK IMPROVEMENTS
TENNIS COURT IMPROVEMENTS

This Contract is made and entered into this ____ day of ____, **2022**, by and between the **City of Fort Mitchell, Kentucky** ("City"), and _____ ("Contractor")

W I T N E S S E T H

For and in consideration of the covenants and agreements hereinafter mentioned, the City and the Contractor do agree as follows:

I. Performance of Work

A. The Contractor agrees to do all the work and furnish all the materials of every kind, tools and appliances of every nature, necessary or proper for performing and completing the work required by this Contract for the project site located in **Fort Mitchell**, Kentucky and known as the, **GENERAL ORMSBY MITCHEL PARK IMPROVEMENTS, TENNIS COURT IMPROVEMENTS**. Such work shall be performed in accordance with the conditions and prices stated in the Proposal, Notice of Invitation to Bid, Instruction to Bidders, General Conditions, Standard Specifications, Technical Specifications, Special Provisions, Bid/Proposal form, Contract Bonds, Plans, (drawings), Measure of Payment, and all Attachments, Appendices, Addenda, Schedules and Exhibits to the forgoing; including all maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof all of which are made a part hereof and collectively evidence and constitute the Contract between the parties, and are known as the Contract Documents.

B. The Contractor shall perform and complete the entire work under the direction of, and to the satisfaction of the City and the Engineer/Architect, and the Contractor shall conduct the work so as to minimize the interference with public and private business and travel. Contractor shall, at its sole expense, whenever necessary or required, provide barricades and shall take such other precautions as may be necessary to protect life, property, buildings, and structures; and shall be liable for all damages occasioned in any way by the acts or omissions of Contractor or any of its designees, subcontractors, employees, agents, or workers.

II. Term

A. The Contractor agrees to begin the work on or before a date to be specified in a written Notice to Proceed from the City and to fully complete the work with speed and diligence.

B. **Liquidated damages**. The parties hereto acknowledge and agree that the exact monetary value of any losses and/or injuries suffered by the City due to the Contractor's failure to perform in a timely and/or acceptable manner is extremely difficult and impractical to calculate; therefore, the parties agree that the sum of Five Hundred Dollars (\$500.00) per day represents a fair and reasonable estimate of the monetary value of such losses and/or damages. Nothing herein shall diminish the City's right to terminate this Contract or exercise any other remedy available to the City for failure of the Contractor to perform in a timely and/or acceptable manner.

III. Skilled workers

A. The Contractor shall employ only competent workers in the work and all work shall be performed in a workmanlike manner and in compliance with all applicable ordinances, statutes, rules and regulations of the City, and of any governmental authority including without limitation any federal, state or local government, or any division or subdivision thereof applicable to the activities of the Contractor hereunder, including wage and hour laws applicable to its employees. All employees of Contractor shall be fully licensed, certified, and qualified and shall be authorized under state and local law to perform such services.

B. The employees and any other subcontractors, agents and/or representatives of Contractor shall be deemed to be under the sole control and direction of the Contractor, who shall be directly responsible for their acts and omissions.

C. It is understood that Contractor is obligated to frequently inspect the quality and effectiveness of the work and when inspections indicate there is a deficiency, the Contractor will then follow through without hesitation to correct the deficiency.

IV. Employment of Labor

The Contractor, in the performance of the work herein, in the employment of mechanics and laborers, shall give preference to residents of the City and the County of Kenton, Kentucky.

V. Liability, Indemnity, and Insurance

A. Notice. Each party hereto shall give to the other prompt and timely written notice of any claim made or suit instituted coming to its knowledge which in any way directly or indirectly, contingently or otherwise, affects or might affect either, and each shall have the right to participate in the defense of the same to the extent of its own interest.

B. Indemnity. Contractor shall keep, hold, and defend the City, including all officers, council-members, agents, and employees thereof, harmless from any and all costs, liabilities, damages, expenses (including costs of suit and reasonable expenses of legal services), claims, demands and causes of action whatsoever claimed by anyone by reason of injury or damage to persons or property sustained as a result of the acts or omissions of Contractor, its agents, servants, employees, subcontractors, suppliers, or invitees, or arising out of the operations of Contractor, excepting such liability resulting from the sole negligence of the City; provided however, that upon the filing of any claim with the City for damages arising out of the incidents for which Contractor agrees to hold the City harmless, then and in that event, the City shall notify Contractor of such claim and Contractor shall have the right to settle, compromise, or defend the same. The City shall have the right to reasonably approve any settlement or compromise prior to its offer to any third party or prior to its acceptance by the Contractor. The City shall have the right to defend its interests in any action at the City's sole cost and expense. Any final judgment rendered against the City for any cause for which Contractor is liable hereunder shall be conclusive against Contractor as to liability and amount, when the time for appeal therefrom has expired. The provisions of this paragraph shall survive the expiration or earlier termination of this Contract.

C. Commercial General Liability and Umbrella Liability Insurance.

1. Contractor shall maintain commercial General Liability (CGL) and if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000.00 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to operations under this Contract. Further, the insurance shall include coverage for the hazards commonly referred to as XCU (explosion, collapse, and underground). This coverage should be obtained if the contract involves

blasting, excavating, tunneling, or other underground work. The products and completed operations coverage shall extend for two (2) years past acceptance, cancellation, or termination of the work.

2. The CGL insurance shall be written on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall include coverage arising from, but not limited to: premises, operations, contractors, subcontractors, consultants, products, completed operations, property damage, personal injury and advertising injury and liability assumed under an insured contract. Said insurance shall contain a severability of interests provision.

3. Contractor shall maintain Business Automobile Liability Insurance with a combined single limit for bodily injury and property damage of no less than \$1,000,000.00 per occurrence, with respect to all vehicles used in performance of the work, whether owned, non-owned, leased, hired, or assigned.

4. If applicable, Contractor shall maintain Builders Risk Insurance in the amount of 100 percent of the contract amount of the improvement(s) to be constructed. Unless otherwise specified, the Contractor shall provide and maintain a builder's risk policy inclusive of fire, extended coverage, vandalism, and malicious mischief insurance. The policy will cover the interest of the city and the Contractor and a certificate of insurance evidencing such coverage shall be secured and presented to the City prior to the start of construction.

5. The policies required by this Contract shall include the City as additional insured or loss payee as applicable, and shall stipulate that the insurance shall be primary insurance and that any insurance carried by the City, its directors, officers, public officials, or employees shall not be contributory insurance. Contractor and its insurers providing the required coverage shall waive all rights of recovery against the City and its directors, officers, public officials, employees, and agents.

6. Prior to commencing any work under this Contract, Contractor will furnish the City with certificates of insurance issued by Contractor's insurer(s) as necessary, in a form acceptable to the City, as evidence that the insurance policies, including all applicable endorsements, providing the required coverage, conditions, and limits required by the section are in full force and effect. The City also reserves the right to request and receive certified copies of any and all such insurance policies and/or endorsements. The City shall not be obligated to review such insurance certificates, policies, and endorsements, or to advise the Contractor of any deficiencies in such documents, and such receipt shall not relieve the Contractor from, or be deemed a waiver of the City's right to insist on strict fulfillment of Contractor's obligations herein. Such certificates shall state that the coverage shall not be amended so as to decrease the protection below the limits specified herein or be subject to cancellation without at least thirty (30) calendar days advance written notice to the City. A renewal policy or renewal certificate shall be delivered to the City at least thirty (30) calendar days prior to any policy's expiration date, except for any policy expiring on the expiration date of this Contract or thereafter.

7. In the event Contractor shall at any time fail to have in effect the insurance required under the provisions of this Contract, upon written notice to the Contractor of its intention to do so, the City shall have the right, but not the obligation, to secure the insurance required hereunder at the cost and expense of the Contractor. In the event the Contractor shall at any time fail to furnish the City with the certificate or certificates required hereunder, the City may, at any time, after fifteen (15) calendar days written notice to Contractor of its intention to do so, secure the required certificate or certificates at the cost and expense of the Contractor. Contractor agrees to reimburse the City for the costs thereof, plus fifteen percent (15%) for administrative overhead. This shall be without prejudice to any other right the City may have in law or equity, including the right to terminate this Contract.

D. Contractor shall maintain insurance protection for Contractor's employees to the extent required by the Workers' Compensation laws of the states where this work will be performed and

where same is not applicable or if necessary to provide a defense to the City, Employers Liability Protection (covering both City and Contractor) for Contractor's employees for no less than \$1,000,000.00 per employee. Contractor, at its own expense, shall maintain statutory unemployment insurance protection for all its employees.

E. The Contractor and his subcontractors agree to limit the liability of the Engineer and the City due to the errors or omissions of the Engineer/Architect and/or the City, such that the total aggregate liability shall not exceed the lesser of the Contract bid amount or \$50,000.00 (the amount of liability insurance agreed to by City).

VI. Required Documents

The Contractor, in addition to the required insurance described herein, must submit proof of a current City business license before beginning the work herein. The Contractor shall also complete a Form W-9, Request for Taxpayer Identification Number and Certification. The Contractor shall also be responsible for obtaining any permits required for the performance of the work herein.

VII. Guarantee

The Contractor guarantees the work done and materials furnished hereunder for a period of one (1) year from and after the date of the final payment hereunder, consistent with the guarantee provisions in the General Conditions.

VIII. Materials Furnished and Services Rendered

Contractor expressly warrants that all goods and services will conform to the applicable specifications, samples, or other descriptions given in all respects and that the goods delivered and services rendered hereunder will be of good quality, material, workmanship, merchantable and free from defects and are suitable for the purpose intended by the City and warrants the same to the complete satisfaction of the City. All of the services required hereunder shall be performed by Contractor or under its supervision, and all personnel engaged in the work shall be fully licensed, certified, and qualified and shall be authorized under state and local law to perform such services. Contractor warrants that it will perform such services in a professional manner consistent with the level of care and skill ordinarily exercised by other Contractors in their industry under similar circumstances at the time the services are performed. Contractor agrees to exercise due and proper care in the hiring of persons skilled in or capable of the performance of the services provided for hereunder.

Contractor further agrees that it shall advise each of its employees of any and all safety and health requirements relating to the services to be performed hereunder or the use of equipment or materials in connection with such services, including, without limitation, the safety and health requirements imposed by or promulgated under the 1970 Williams-Steiger Occupational Health Act (OSHA).

The Contractor shall pay for all materials furnished and services rendered in the performance of the work, and any person or entity furnishing such materials or rendering such services may maintain an action thereon to recover for the same against the Contractor, as though such person or corporation was named a party to this Contract. Prior to payment of all or part of the price under this Contract, Contractor shall execute a statement confirming that all subcontractors, suppliers and materialmen are paid in full and no mechanics' or material liens have been or anticipated to be filed in relation to the work performed hereunder.

IX. Payment

The City agrees to pay Contractor and the Contractor agrees to accept from the City in payment for the work, services, and product provided by Contractor under this Contract an amount not to exceed _____ (\$ _____) consistent with the Contract Documents. If the City does not approve Contractor's invoice, the City shall pay such amount as it deems owing to Contractor and give Contractor written notice of why such approval is not given.

X. Termination by the City

A. In the event of failure by the Contractor to comply with any provision of this Contract, or if any work is omitted or unsatisfactorily performed, as determined by the City in its sole discretion, written notice shall be given to the Contractor requesting immediate cure of the defect. If the Contractor fails to perform as directed in the written notice, the City may suspend or cancel this Contract and a deduction shall be made for payment due the Contractor in such amount as is required to have the work performed by special part-time workers or independent contractors, or by such other means as may be deemed necessary to assure correction of the failure to perform.

B. In addition to all other rights of revocation or termination hereunder, and notwithstanding any of the terms or provisions of this Contract, the City has the right at any time, and without cause, to revoke or cancel this Contract upon ten (10) days written notice by certified mail to the Contractor, such revocation or cancellation to be effective upon the date and time specified in such notice.

XI. Miscellaneous Provisions

A. Notice. For purposes herein, any notices, letters, and other communications to be given to the Contractor hereunder may be given at the address set forth in the Bid/Proposal upon which this Contract is founded or at the Contractor's office at or near the site of the work. Any notices, letters, and other communications to be given to the City hereunder shall be given to the Engineer and the City Clerk at the addresses set forth herein. Any such notices, letters, and other communications shall be delivered to the Contractor or Engineer and City by delivering same in person, or by mailing same by certified mail, with postage prepaid. Such notices, letters, and other communications shall be deemed received as of the date of such personal delivery or the date of deposit in the mail. The place for any notice required hereunder may be changed by either party by given notice to the other respective party(ies) of such change.

B. Captions. The headings of the several paragraphs of this Contract are inserted only as a matter of convenience and for reference and in no way limit, define, or describe the scope or intent of any provisions of this Contract and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

C. Severability. In the event that any covenant, condition, or provision herein is held to be invalid by any Court of competent jurisdiction, the invalidity of any such covenant, condition, or provision herein will not affect the validity of any other covenant, condition, or provision herein provided that the validity of any such covenant, condition, or provision does not materially prejudice either the City or the Contractor in its prospective rights and obligations contained in the valid covenants, conditions or provisions of this Contract.

D. Amendment. This Contract and any supplement hereto may not be amended or modified unless such amendment or modification is in writing and signed by both parties to this Contract.

E. Successors and Assigns Bound. This Contract shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto, where permitted by this Contract.

F. Assignment. The Contractor shall not transfer or assign this Contract, in whole or in part, or any payment due or to become due hereunder, nor shall the Contractor make any subcontract for the performance of any work hereunder, without the written consent of the City, and notwithstanding that the City may consent thereto, the Contractor shall, at all times, remain liable to the City under the provisions of this Contract and for the performance of the work as provided herein.

G. No Personal Liability. No director, officer, public official, employee, or agent of the City shall be charged personally or held contractually liable by or to the other party under any term of this Contract.

H. Jurisdiction. This Contract and all supplements hereto shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. The City and Contractor agree that any legal or equitable action for claims, debts or obligations arising out of or related to this Contract shall be brought solely in the Circuit Court of Kenton County, Kentucky or United States District Court for the Eastern District of Kentucky, Covington Division, and that either Court shall have personal jurisdiction over the parties and venue of the action shall be appropriate in each such Court. Contractor shall comply with all present and future federal, state and local laws applicable to the rendering of the Services provided for herein. Further, Contractor shall comply with all present and future rules and regulations of the City and any other governmental agency.

XII. Entire Contract

The drafting, execution, and delivery of this Contract by the parties have been induced by no representations, statements, warranties, agreements or contracts other than those expressed herein. This Contract including all attachments hereto embodies the entire understanding of the parties and there are no further Contracts or contracts, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to herein.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first aforesaid.

CITY OF FORT MITCHELL

By: _____

Its: _____

**STATE OF KENTUCKY
COUNTY OF KENTON**

Subscribed and sworn before me by _____ this _____ day of _____, **2021**.

NOTARY PUBLIC
My Commission Expires: _____
My Jurisdiction is: Kentucky State at Large

ATTEST:

City Clerk

CONTRACTOR

By: _____

Its: _____

**STATE OF KENTUCKY
COUNTY OF _____**

Subscribed and sworn before me by _____ this _____ day of _____, **2022**.

NOTARY PUBLIC
My Commission Expires: _____
My Jurisdiction is: Kentucky State at Large

APPENDIX 'A'

- **Vendor Insurance Requirements;**
- **Required Affidavit for Bidders, Offerors and Contractors Claiming Resident Bidder Status**
- **Bid Guaranty and Contract Bond;**
- **Certificate as to Interest;**
- **Affidavit Regarding Workers' Compensation and Unemployment Insurance;**
- **Guarantee;**
- **Final Release of Lien;**
- **Performance Bond**
- **Payment Bond**

City of Ft. Mitchell

Vendor Insurance Requirements

Prior to commencement of your services, you must provide the city with a certificate of insurance evidencing the following insurance coverage:

1. Commercial General Liability insurance on ISO form CG00011001 (or a substitute providing equivalent coverage). The limit shall not be less than \$1,000,000 per occurrence. ***The City of Ft. Mitchell must be named as an Additional Insured; the certificate shall specify that the coverage afforded is Primary and Non-contributory with respect to any other coverage available to the City of Ft. Mitchell.*** If you are providing construction services, you must use additional insured endorsements CG20100704 AND CG20370704.
2. Comprehensive owned and non-owned automobile liability insurance with a minimum combined single limit of \$1,000,000.
3. Workers Compensation Coverage specific to the State of Kentucky.
4. Professional Liability / Errors or Omissions coverage in the amount of \$1,000,000 per occurrence if your services are professional in nature (legal, architectural, etc.).

If your services involve pyrotechnics, mechanical amusement devices, inflatable amusement devices, animals of any type (including petting zoo or pony rides) or any other services that the City of Ft. Mitchell deems applicable, you must also provide the following:

1. Commercial Umbrella Liability policy with a minimum limit of \$1,000,000.

If your services include the sale of alcohol, you must also provide the following (in addition to above requirements):

1. Liquor liability coverage with a minimum limit of \$1,000,000.

Any and all liability coverage shall name the City of Ft. Mitchell as Additional Insured on a primary and non-contributory basis. A satisfactory certificate of insurance evidencing the coverage outlined above shall be provided before any services are rendered.

BID GUARANTY AND CONTRACT BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____

(Here insert full name or legal title of Contractor and address)

as Principal and _____

(Here insert full name or legal title of Surety)

as Surety, are hereby held and firmly bound unto _____

City of Fort Mitchell, Kentucky

(Here insert full name or legal title of Owner)

hereinafter called the Obligee, in the penal sum of the dollar amount of the bid submitted by the Principal to the Obligee on _____ to undertake the project known as:

GENERAL ORMSBY MITCHEL PARK IMPROVEMENTS "TENNIS COURT IMPROVEMENTS"

The penal sum referred to herein shall be the dollar amount of the Principal's bid to the Obligee, incorporating any additive or deductive alternate proposals made by the Principal on the date referred to above to the Obligee, which are accepted by the Obligee. In no case shall the penal sum exceed the amount of

_____ dollars

(\$ _____). If this item is left blank, the penal sum will be the full amount of the Principal's bid, including alternates. Alternatively, if completed, the amount stated must not be less than the full amount of the bid, including alternatives in dollars and cents. A percentage is not acceptable.

For the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above named Principal has submitted a bid on the above referred to project;

NOW, THEREFORE, if the Obligee accepts the bid of the Principal and the Principal fails to enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material; and in the event the Principal pays to the Obligee the difference not to exceed ten percent of the penalty hereto between the amount specified in the bid and such larger amount for which the Obligee may in good faith contract with the next lower bidder to perform the work covered by the bid; or in the event the Obligee does not award the contract to the next lower bidder and resubmits the project for bidding, the Principal will pay the Obligee the difference, not to exceed ten percent of the penalty hereof between the amount specified in the bid, or the costs, in connection with the resubmission, of printing new contract documents, required advertising and printing and mailing notices to prospective bidders, whichever is less, then this obligation shall be null and void, otherwise to remain in full force and effect. If the obligee accepts the bid of the Principal and the Principal within ten days after the awarding of the contract, enters into a proper contract in accordance with the bid, plans, details, specifications, and bills of material,

which said contract is made a part of this bond the same as though set forth herein; and IF THE SAID Principal shall well and faithfully perform each and every condition of such contract; and indemnify the Obligee against all damage suffered by failure to perform such contract according to the provisions thereof and in accordance with the plans, details, specifications, and bills of material therefore; and shall pay all lawful claims of subcontractors, materialmen, and laborers, for labor performed and materials furnished in the carrying forward, performing, or completing of said contract: we agreeing and assenting that this undertaking shall be for the benefit of any materialman or laborer having a just claim, as well as for the Obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

THE SAID Surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of said contract or in or to the plans and specifications therefore shall in any way affect the obligations of said Surety on this bond, and it does hereby waive notice of any such modifications, omissions or additions to the terms of the contract or to the work or to the specifications.

SIGNED AND SEALED This _____ day of _____, 2022 _____.

Principal

By: _____

Title: _____

Surety

By: _____

Attorney-in-Fact

Surety Company Address

Surety Agent's Name and Address

CERTIFICATE AS TO INTEREST

_____, being the _____
(Name) (Position)

of _____, the bidder which submitted the foregoing
(Company Name)

proposal for the improvement, repair and, construction of:

GENERAL ORMSBY MITCHEL PARK IMPROVEMENTS "TENNIS COURT IMPROVEMENTS"

in the City of Ft. Mitchell, deposes and says that _____ is
(Company Name)

a Kentucky corporation, that it is the only entity or person interested in the herein contract for said work, and the profits thereof; that the said contract is made without any connection or interest in the profits thereof with any other person making any bid or proposal for said work; that the said contract is, on its part, in all respects fair and without collusion or fraud and that no member of the City Council, head of any department or any employee therein or any office of the City is directly or indirectly interested in said contract.

Company Name

By: _____

Sworn to before me and subscribed in my presence this _____ day of _____, 2022__.

Notary Public

**AFFIDAVIT
REGARDING
WORKER'S COMPENSATION
AND
UNEMPLOYMENT INSURANCE**

The undersigned Contractor, being awarded a Contract by the City of Fort Mitchell, Kentucky, identified as: _____ hereby assures that all Contractors and subcontractors employed, or that will be employed, under the provisions of the foregoing identified contract shall be in compliance with Kentucky requirements for Worker's Compensation Insurance according to KRS Chapter 342 and unemployment insurance according to KRS Chapter 341.

DATED this _____ day of _____, 2022 _____.

STATE OF _____
COUNTY OF _____

Subscribed and sworn to before me, a Notary Public, by _____, on behalf of the foregoing identified Contractor this _____ day of _____, 2022 _____.

NOTARY PUBLIC
MY JURISDICTION IS: _____
EXPIRATION DATE: _____

GUARANTEE

TO: CITY OF FORT MITCHELL
2355 DIXIE HIGHWAY
FORT MITCHELL, KENTUCKY 41017

DATE: _____

The undersigned, _____, having heretofore entered into a contract with the City of Fort Mitchell, Kentucky, dated _____, for the Improvement, Repair, and Construction of:

GENERAL ORMSBY MITCHEL PARK IMPROVEMENTS "TENNIS COURT IMPROVEMENTS"

and in accordance with the terms of said contract do hereby guarantee that all labor and material furnished and work performed by us under said contract is in conformity with such plans and specifications and authorized alterations thereto and that such Improvement, Repair and Construction installed pursuant to said contract is free from imperfect workmanship and materials, and we agree to repair at our own cost and expense all of the work covered under said contract and change orders which may prove to be defective for a period of one year after the date of Final Payment as set forth in the Contract Documents. Furthermore, we agree to repair at our sole cost any work, which we may affect or disturb in making the repairs herein contemplated.

STATE OF KENTUCKY :

SS

KENTON COUNTY :

The foregoing instrument was acknowledged before me this _____ day of _____, 2022.

By _____, _____, of
(Name) (Title)
_____, a/an _____ corporation on behalf of the corporation.
(Company) (State)

By _____

Title _____

Guarantee Period Begins _____
(Date)

Sworn to and subscribed in my presence this _____ day of _____, 2022.

THE AMERICAN INSTITUTE OF ARCHITECTS



AIA Document A312

Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

CONSTRUCTION CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond:

None

See Page 3

CONTRACTOR AS PRINCIPAL
Company:

(Corporate Seal)

SURETY
Company:

(Corporate Seal)

Signature: _____
Name and Title:

Signature: _____
Name and Title:

(Any additional signatures appear on page 3)

(FOR INFORMATION ONLY—Name, Address and Telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE (Architect, Engineer or
other party):

2025 RELEASE

This standard document is NOT a model form. Its inclusion in the Architect's Handbook of Professional Practice, 12th Edition, does not constitute a grant of any implied or explicit license to copy it in whole or in part. See the Instruction Sheet for information on licensed reproduction.

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3 If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.

4 When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

.1 After investigation, determine the amount for

which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

.2 Deny liability in whole or in part and notify the Owner citing reasons therefor.

5 If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6 After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by the delayed performance or non-performance of the Contractor.

7 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators or successors.

8 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

9 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation avail-

This standard document is NOT a model form. Its inclusion in the Architect's Handbook of Professional Practice, 12th Edition, does not constitute a license or implied or explicit license to copy it in whole or in part. See the Instruction Sheet for Information on this licensed reproduction.

able to sureties as a defense in the jurisdiction of the suit shall be applicable.

10 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

11 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12 DEFINITIONS

12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Con-

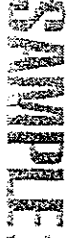
tractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:



This standard document is NOT a model form. Its inclusion in the Architect's Handbook of Professional Practice 12th Edition, does not constitute a grant of any implied or explicit license to copy it in whole or in part. See the Instruction Sheet for information on licensed reproduction.

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL
Company: _____ (Corporate Seal)

SURETY
Company: _____ (Corporate Seal)

Signature: _____
Name and Title:
Address:

Signature: _____
Name and Title:
Address:

THE AMERICAN INSTITUTE OF ARCHITECTS



AIA Document A312

Payment Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

CONSTRUCTION CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond:

None

See Page 6

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

SURETY

Company:

(Corporate Seal)

Signature: _____

Name and Title:

Signature: _____

Name and Title:

(Any additional signatures appear on page 6)

(FOR INFORMATION ONLY—Name, Address and Telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

NOTE

This standard document is NOT a model form. Its inclusion in the Architect's Handbook of Professional Practice, 12th Edition, does not constitute a grant of any implied or explicit license to copy it in whole or in part. See the Instruction Sheet for information on licensed reproduction.

SAMPLE

This standard document is NOT a model form. Its inclusion in the Architect's Handbook of Professional Practice, 12th Edition, does not constitute a grant of any implied or explicit license to copy it in whole or in part. See the Instruction Sheet for information on licensed reproduction.

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

2 With respect to the Owner, this obligation shall be null and void if the Contractor:

2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

3 With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4 The Surety shall have no obligation to Claimants under this Bond until:

4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

4.2 Claimants who do not have a direct contract with the Contractor:

- 1 Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
- 2 Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
- 3 Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5 If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6 When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

6.2 Pay or arrange for payment of any undisputed amounts.

7 The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

11 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this

Bond shall be construed as a statutory bond and not as a common law bond.

14 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15 DEFINITIONS

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the

Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

SAMPLE

This standard document is NOT a model form. Its inclusion in the Architect's Handbook of Professional Practice, 12th Edition, does not constitute a grant of any implied or explicit license to copy it in whole or in part. See the Instruction Sheet for information on licensed reproduction.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL
Company: _____ (Corporate Seal)

SURETY
Company: _____ (Corporate Seal)

Signature: _____
Name and Title:
Address:

Signature: _____
Name and Title:
Address: