

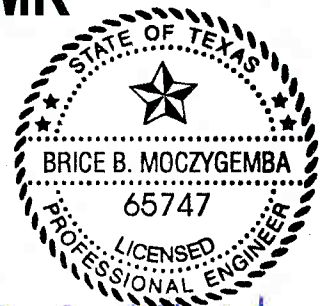
**San
Antonio
Water
System**

**Bid Contract Documents
for**

**Borgfeld Rd. - West
16" Oversize (12" Required)
Water Main**

**SAWS Job No. 07-3004
Solicitation No. B-11-008-MR**

January 2011



Brice Moczygemba
1/19/11

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INVITATION TO BIDDERS

Solicitation No. B-11-008-MR

Sealed bids are requested by the San Antonio Water System for the construction of approximately 7,367 linear feet of 16-inch water main for the Borgfeld Road – West, 16-Inch Oversized Water Project, SAWS Job No. 07-3004.

To view additional project information, as well as obtain the plans and specifications for this project, visit our website located at www.saws.org and click on the Business Center. Then select Bidder, Consultant, and Vendor Registration, which is located on the left-hand side of the screen. Select the Register Now button and proceed with registration. For difficulties downloading plans and specifications, contact the Contracting Department at 210-233-3341.

For questions regarding this solicitation, technical questions or additional information, please contact Marc Ripley, Contract Administrator, in writing via email to: mripley@saws.org or by fax to (210) 233-4609 until 10:00 AM (CST) on February 04, 2010. SAWS will post answers to the project web site shortly thereafter as a separate document or included as part of an addendum.

A non-mandatory pre-bid meeting will be held at 10:00 a.m. on February 03, 2011 at the San Antonio Water System's Customer Service Tower (North Building #2,) 1st Floor, Conference Room CR-C169, 2800 U.S. Hwy 281 North, San Antonio, Texas.

Sealed bids will be received by the Contract Administration Division, 2800 U.S. Hwy 281 North, Customer Center Building, Suite 171, San Antonio, Texas 78212, until 10:00 a.m., February 10, 2011. Bids will then be publicly opened and read aloud in Contract Administration, Suite 169, Customer Center Building, 2800 U.S. Hwy 281 North, San Antonio, Texas. Each bid must be accompanied by a cashier's check, certified check, or bid bond in an amount not less than five percent of the total bid price.

INSTRUCTIONS TO BIDDERS

1. Bids will be submitted in accordance with the following:
 - a. Sealed bids will be received by the office of **Contract Administration Division, San Antonio Water System, 2800 U.S. Hwy 281 North, Customer Center Building, Suite 171, San Antonio, Texas 78212**, until the time specified in the Invitation to Bidders.
 - b. If the submittal of a sealed bid is by any means other than personal/hand delivery, then it is the bidder's sole responsibility to ensure the bid is delivered to the exact location specified above, no later than the exact time specified in the Invitation to Bidders.
 - c. All bids errantly submitted or delivered to a location other than the exact location stated above will be returned unopened.
 - d. All bids received after the exact time set for the bid opening in the Invitation to Bidders will be returned unopened.
 - e. The San Antonio Water System Contracting Office may, at its sole discretion, without waiver of rights or authority, in equity or at law, return unopened, any bid not meeting the exact requirements as stated above.

2. Bids will be opened in accordance with the following:
 - a. Bids will be opened in a public setting and read aloud by a Contract Administration representative.
 - b. The lowest bid received at the time of the bid opening shall be designated as the "apparent low bid," whether announced in that manner or not, and shall not represent an acceptance of an offer.
 - c. All bid results are unofficially, tentative and subject to verification on the day of the bid opening.
 - d. No bid may be withdrawn after the scheduled bid opening time without the written consent of a Contract Administration representative.
 - e. The "official" bid results will be tallied on a "bid tabulation sheet" and may, within 10 business days of the bid opening, be posted on the San Antonio Water System's web site.

3. All bids must be accompanied by Certified or Cashier's Check or an approved Bid Bond in the amount of not less than five percent (5%) of the total bid, payable without recourse to the San Antonio Water System. Surety shall provide a copy of the Power of Attorney authorizing the Executing Agent the authority to execute the bid bond documents and bind the Surety to the bid bond conditions. The bid bond shall have a corporate Surety that is licensed to conduct business in Texas and authorized to underwrite bonds in the amount of the bid bond. ***Submission of an Individual Surety is not acceptable for purposes of bonding a bid bond.*** Bid Bonds, Certified or Cashier's checks will be retained for the first, second, and third lowest bidders until the contract is executed.

4. Bids must be submitted on the original bid form attached herein and shall be sealed in an envelope plainly marked on the outside with job number, the date and time of the bid opening, and the name of project bid on.
5. Bids will be prepared in accordance with the following:
 - (a) The Bidder shall thoroughly examine the drawings, specifications, schedule, instructions and all other documents.
 - (b) Bidder shall make all investigations necessary to be informed thoroughly regarding plant and facilities for delivery of material and equipment as required by the bid conditions. No plea of ignorance by the Bidder of conditions that exist, or that may hereafter exist as a result of failure or omission on the part of the Bidder to make the necessary examinations and investigations to fulfill in every detail the requirements of the contract documents, will be accepted as the basis for varying the requirements of the San Antonio Water System or the compensation to the Contractor. Bidders are required, prior to submitting the Bid Proposal, to review the plans and read the specifications, special provisions and or special conditions, any addendums issued, proposal, contract and bond forms carefully; to visit the site of the work; to examine carefully local conditions; to inform themselves by their independent research, tests and investigations of the difficulties to be encountered and judge for themselves the accessibility of the work and all attending circumstances affecting the cost of doing the work or time required for its completion; and to obtain all information required to make an intelligent proposal. Bidders shall rely exclusively upon their own estimates, investigations, tests and other data which are necessary for full and complete information upon which the proposal may be based. Any bidder, by submitting his Bid Proposal, represents and warrants: that he has prepared his bid in accordance with the specifications, with full knowledge and understanding of the terms and provisions thereof; that he has reviewed, studied and examined the bid prior to the signing and submission of same; and that he was cognizant of the terms of his proposal, verified his calculations and found them to be correct and agrees to be bound thereby; and that he has visited the site of work, has fully familiarized himself with the local and on-site conditions under which the work is to be performed and has correlated his observation with the requirements of the contract documents. In addition, the Bidder represents that he has satisfied himself as to subsurface conditions at the site of the work. Information, data and representations contained in the contract documents pertaining to the conditions at the site, including but not limited to subsurface conditions, are for information only and are not warranted or represented in any manner to accurately show the conditions at the site of the work. All risks of differing conditions at the site, including but not limited to subsurface conditions shall be borne solely by the Bidder.
 - (c) The Bidder shall furnish all information required by the bid form. The Bidder shall print or type his name and manually sign the Bid Proposal in the required area of the document.
 - (d) The Bidder is required to submit a Good Faith Effort Plan form and all SMWB Certification Certificates for the bidder or their subcontractors as part of the bid package. Bidder and/or their agents may contact the SMWB Program Manager at 210-233-3420 for assistance or clarification with issues specifically related to the Small, Minority, and Woman Business (SMWB) Program policy and/or completion of the Good Faith Effort Plan form.
 - (e) The Bidder is required to submit a completed Conflict of Interest Questionnaire (CIQ Form). Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons,

or their agents, who seek to contract for the sale or purchase of property, goods, or services with SAWS shall file a completed Conflict of Interest Questionnaire (CIQ) with SAWS. The CIQ Form will be submitted as part of the bid. This form is available from the Texas Ethics Commission at www.ethics.state.tx.us. Please consult your own legal advisor if you have questions regarding the statute or form.

- (f) The Bidder is required to submit as part of the bid a letter from the insurance provider stating provider's commitment to insure the Contractor for the types of coverage's or an Insurance Certificate to be in conformance with the types of coverage's noted in General Conditions Section 5.7 – Contractor's Insurance Requirements, if awarded the contract.
 - (g) Pursuant to Section 151.311 of the Texas Tax Code, as amended, in order for the San Antonio Water System to continue to benefit from its status as a State Sales and Use Tax Exempt Organization, construction contracts must be awarded on a "separated contract" basis. A "separated contract" is one that distinguishes the value of the tangible personal property (materials such as pipe, bricks, lumber, concrete, paint, etc.) to be incorporated into the project from the total contract price. Under the "separated contract" format, the contractor in effect becomes a "seller" to the San Antonio Water System of materials that are to be physically incorporated into the project realty. As a "seller", the contractor will issue a "Texas Certificate of Resale" to the supplier in lieu of paying the sales tax on materials at the time of purchase. The contractor will also issue a "Certificate of Exemption" to the supplier demonstrating that the personal property is being purchased for resale and that the resale is to a department of the City of San Antonio, Texas, which is a sales tax exempt entity. Contractors should be careful to consult the most recent guidelines of the State Comptroller of Public Accounts regarding the sales tax status of supplies and equipment that are used and consumed during project work but that are not physically incorporated into the project realty. Contractors that have questions about this law are asked to inquire with the State Comptroller of Public Accounts, at (800) 252-5555. Bidders will not include any federal taxes in bid prices since the San Antonio Water System is exempt from payment of such taxes. "Texas Certificates of Exemption", "Texas Certificates of Resale" and "Texas Sales Tax Permits" are forms available to the contractor through the regional offices of the State Comptroller of Public Accounts.
6. Any catalogue or manufacturer's reference used in describing an item is merely descriptive, and not restrictive unless otherwise noted, and is used only to indicate type and quality of material. When items proposed differ in any way from those specified, Bidders are required to state exactly what they intend to furnish. Otherwise, they shall be required to furnish the items as specified.
7. The work shall be done and completed in accordance with the following Contract Documents as furnished by the San Antonio Water System:
- a. The Invitation to Bidders
 - b. The Instructions to Bidders
 - c. The Bid
 - d. The Payment Bond
 - e. The Performance Bond
 - f. The General Conditions of the Contract
 - g. The Special Conditions of the Contract
 - h. The Supplemental Conditions of the Contract
 - i. The Construction Specifications
 - j. The Standard Drawings

- k. Addenda
 - l. Change Orders
 - m. Good Faith Effort Plan
 - n. Conflict of Interest Questionnaire
8. The successful Bidder will be required to execute the standard San Antonio Water System Contract Agreement, Performance and Payment Bonds as outlined in the General Conditions. These forms will be prepared and furnished by the San Antonio Water System. Surety shall provide a copy of the Power of Attorney authorizing the Executing Agent the authority to execute the bond documents and bind the Surety to the bond conditions. These bonds shall have a corporate Surety that is licensed to conduct business in Texas and authorized to underwrite bonds in the amount of the project. Contractor agrees that all Performance and Payment Bonds required shall be submitted in accordance with General Conditions, Sections 3.5 & 3.6. If the contract amount does not exceed \$25,000.00, then the Performance and Payment Bonds will not be required.
 9. In all cases, the written unit price in the bid shall govern. Where there is an error in the extension, the San Antonio Water System Contracting Office will extend the written unit price and make any corrections necessary. Any error will be corrected, and the correct amount will be the basis for determining the bid position.
 10. Bidders are advised that estimated quantities of anticipated requirements during the contract period are not calculated with certainty. It is the policy of the Board, however, as a matter of prudent buying and contracting, to establish in advance of actual purchase or performance of the work, the price of the work which is anticipated, and the price on certain items calculated on the maximum number of a particular item which it might need during a contract period. Bidders are advised that during such period, the Board may determine not to purchase any of the items or may delete any or all of the work listed in a bid or invitation. Under such a contract, the Board's only commitment is to purchase the items from or proceed with the work by the successful Bidder at the price bid if the Board should, in fact, decide to purchase such items during the contract period or proceed with such work as proposed. On all bids, the Board reserves the right to reject a bid, which in the Board's judgment is "unbalanced." An "unbalanced bid" is defined as one in which a particular item or a class of items is bid at a figure sufficiently less than or higher than either general market price or Bidder's cost, so as to make the Bidder low on the overall bid but high on a significant number of other items. The Board reserves the right to exercise its judgment and reject such a bid as unqualified. If the Board nevertheless accepts such an unbalanced bid and the contract is awarded, the Board reserves the right to delete any or all of such items from the purchases to be made or work to be done.
 11. The SAWS will provide all necessary rights-of-way or easements for the project.
 12. No owner, stockholder, partner, officer, or employee of the Bidder, or any person who has a financial interest in this contract in any way, whether direct or indirect, shall be an officer or employee of the San Antonio Water System or the City of San Antonio at the time of bidding on this contract, or during the life of this contract. Any violations of this provision will render the bid or contract void.
 13. The Contractor will establish a San Antonio address and telephone number and file that information with the Contracting Officer prior to starting work. If the contractor does not have a local office then they must submit the address and telephone number of the field office established for this project. The Contractor's address and telephone number will be maintained until the work is completed and accepted by the owner.

14. In case of ambiguity, duplication or obscurity in the bids, the San Antonio Water System Contracting Office reserves the right to construe and apply the meaning thereof. The San Antonio Water System Contracting Office reserves the right to reject any and all bids and to waive formalities.
15. The San Antonio Water System Contracting Office reserves the right, subject to the Contractor's approval, to extend any annual contract for an additional period of not more than one year, subject to the same terms and conditions as enumerated in the invitation and instruction to Bidders and at a price or prices not to exceed the prices quoted.
16. It is anticipated that the contract will be awarded within **60** days after bid opening to the **Responsible Bidder** whose bid, conforming to the invitation for bids, is most advantageous to the San Antonio Water System. Bidders are advised that the awarding of contracts on a bid basis is a requirement of state law and city charter. The purposes of such requirements are: (1) to prevent the historic abuses of negotiated purchases; (2) to enable the Board to use its purchasing power to buy at the lowest possible prices for the benefit of the system and the public; and (3) to enable the Board to award the contract to other than the low Bidder when, in the Board's judgment, the low Bidder is not qualified. Bidders are advised that it is not the intention of the Board, necessarily, to award contracts on the basis of differences in the bids other than differences in basic "price of the item." The Board reserves the right to take whichever action as may, in the judgment of the Board, to be its best interest as follows:
 - (1) Reject all bids;
 - (2) Award the bids by the drawing of lots; or
 - (3) Award the bids on the basis of differences other than price.

Bidders are advised that the awarding of bids is a matter solely within the jurisdiction of the Board of Trustees. The San Antonio Water System reserves the right to accept any items or groups of items in this bid. Execution of written acceptance of a bid by the San Antonio Water System shall constitute an award.

17. The San Antonio Water System Contracting Office may reject the apparent low Bidder when: (a) the Bidder misstates or conceals any material fact in the bid, or if (b) the Bidder does not conform with the law or the bid, or if (c) the bid is conditional, or if (d) the bid is unbalanced, or when (e) the lowest Bidder is not, in the Board's judgment, qualified, or when (f) the lowest bid is not, in the Board's judgment, the lowest and best bid, or if (g) the Bidder fails to acknowledge in the final bid price of the bid and include signed copies thereof, any and all addendums issued prior to bid opening.

It will be the full responsibility of each Bidder to visit the SAWS web site to verify the existence of and include with their bid, any and all addendums issued by the San Antonio Water System. The San Antonio Water System Contracting Office reserves the right to reject any and all bids, to accept any bids, or parts thereof, considered by the San Antonio Water System to be to its best interest, and to waive formalities or irregularities.

18. The Bidder in preparing his bid, shall take cognizance of the difficulty of distinguishing between boulders and ledge rock, the difficulty of accurately classifying all material encountered in making the subsurface investigations, the possible erosion of stream channels and banks after survey data has been obtained, and the unreliability of water elevations other than those for the date recorded. Claims for additional compensation due to variations between conditions actually encountered in a construction and as indicated in the plans will not be allowed.

19. All contracts in excess of \$10,000 with contractors or suppliers having 15 or more employees will include the clauses listed below:

- (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will assure that employees or applicants for employment are treated in a fair and equitable manner in such actions which shall include but not be limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor will post in conspicuous places for the benefit of the employee and applicants for employment notices setting forth the provisions of this nondiscrimination clause.
- (b) Upon request, the Contractor will furnish to the San Antonio Water System all information and reports and will permit access to the books, records, and accounts for the purposes of an investigation to ascertain compliance with rules and regulations set forth by this organization.
- (c) If a Contractor is found not to be in compliance with the nondiscrimination clause of this contract, the contract may be canceled, terminated, or suspended in all or in part and the Contractor may be debarred from further contracts with the San Antonio Water System.
- (d) All Bidders or prospective Contractors or Subcontractors will be required to submit a statement in writing signed by an authorized official or agent in behalf of the company to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex, or national origin.

The Contractor shall comply with all provisions of Executive Order 11246, Equal Employment Opportunity, dated 24 September 1965 or as amended and with Section 3 of the Housing and Urban Development Act of 1968 covering opportunities for business and lower financed HUD assisted projects.

Statement on President's Executive orders

Has your firm previously performed work subject to the President's Executive Orders Numbers 11246 and 11375 or any preceding similar executive orders (Numbers 10925 and 11114)? Yes No

Contractors/Consultants/Vendors on work paid by federal funds will be required to comply with the president's executive order no. 11246, "Equal Employment Opportunity," as amended by executive order no. 11375, "amending executive order 11246 relating to equal employment opportunity," and as supplemented by regulations at 41 CFR part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department Of Labor.

20. Approval of Plans and/or Specifications by the Director of Engineering shall not constitute an assumption of liability by the San Antonio Water System or the Director for any inaccuracy of computation or deficiency of design therein.

21. Bidder shall not offer, confer, or agree to confer any benefit or gift to any San Antonio Water System Employee, Officer, or Trustee of the Board of the San Antonio Water System.

22. Contractor shall comply with the "WORKERS COMPENSATION INSURANCE COVERAGE REQUIREMENTS" as noted on Section 5.7 CONTRACTOR'S INSURANCE REQUIREMENTS of the General Conditions.
23. To assist the San Antonio Water System Contracting Office in performing the bidder evaluation and subsequent recommendation of award, the apparent low bidder will submit the following items within one (1) day of the bid opening. Failure to provide the required information within the specific time, may result in determining a non-responsive bidder:
- (a) A complete financial statement for your organization that was prepared within the past 12 months, by an independent Certified Public Accountant, and a point of contact for your banking institution.
 - (b) An information packet on company showing experience, organization and equipment.
 - (c) A statement regarding ability to complete the project within the schedule taking into account existing commitments.
 - (d) Record of performance on three (3) similar projects completed within the last 5 years including name of project, amount of project, project duration, name, address, and telephone number of contact person for each project.
 - (e) A completed and signed W-9 Request for Taxpayer Identification Number and Certification form.

WORKERS' COMPENSATION INSURANCE COVERAGE REQUIREMENTS

A Contractor shall:

- (1) provide coverage for its employees providing services on a project for the duration of the project based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements;
- (2) provide a certificate of coverage showing workers' compensation coverage to the governmental entity prior to beginning work on the project;
- (3) provide the governmental entity, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project;
- (4) obtain from each person providing services on a project, and provide to the governmental entity:
 - (A) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (B) no later than seven (7) days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (5) retain all required certificates of coverage on file for the duration of the project and for the three (3) years thereafter,
- (6) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project;
- (7) post a notice on each project site informing all persons providing services on the project that they are required to be covered, and stating how a person may verify current coverage and report failure to provide coverage. This notice does not satisfy other posting requirements imposed by the Act or other commission rules. This notice must be printed with a title in at least 30-point bold type and text in at least 19-point normal type, and shall be in both English and Spanish and any other language common to the worker population. The text for the notices shall be the following text provided by the commission on the sample notice, without any additional words or changes. **REQUIRED WORKERS' COMPENSATION COVERAGE** "The law requires that each person working on the site or providing services related on this site or providing services related to this construction project must be covered by workers' compensation insurance. This includes persons providing, hauling, or delivering equipment or materials, or providing labor or transportation or

other services related to the project, regardless of the identity of their employer or status as an employee." "Call the Texas Workers' Compensation Commission at [1-800-252-7031](tel:1-800-252-7031) to receive information on the legal requirements for coverage, to verify whether your employer has provided the required coverage, or to report an employer's failure to provide coverage"; and

- (8) contractually required each person with whom it contracts to provide services on a project, to:
- (A) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements for all of its employees providing services on the project, for the duration of the project;
 - (B) provide a certificate of coverage to the contractor prior to that person to beginning work on the project;
 - (C) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during duration of the project;
 - (D) obtain from each other person with whom it contracts, and provide to the contractor:
 - (i) a certificate of coverage, prior to the other person beginning work on the project; and
 - (ii) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project,
 - (E) retain all required certificates of coverage on file for the duration of the project and for three (3) years thereafter;
 - (F) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - (G) contractually require each other person with whom it contracts, to perform as required by subparagraphs (A) - (G) of this paragraph, with the certificate of coverage to be provided to the person for whom they are providing services.

A person providing services on a project, other than a contractor shall:

- (1) provide coverage for its employees providing services on a project, for the duration of the project based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements;

- (2) provide a certificate of coverage as required by its contract to provide services on the project, prior to beginning work on the project;
- (3) provide the person for whom it is providing services on the project, prior to the end of the coverage period shown on its current certificate of coverage, a new certificate showing extension of coverage, if the coverage period shown on the certificate of coverage ends during the duration of the project;
- (4) obtain from each person providing services on a project under contract to it, and provide as required by its contract:
 - (A) a certificate of coverage, prior to the other person beginning work on the project; and
 - (B) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project,
- (5) retain all required certificates of coverage on file for the duration of the project and for three (3) years thereafter;
- (6) notify the governmental entity in writing by certified mail or personal delivery, of any change that materially affects the provision of coverage of any person providing services on the project and send the notice within ten (10) days after the person knew of should have known of the change; and
- (7) contractually require each other person with whom it contracts to;
 - (A) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements for all of its employees providing services on the project, for the duration of the project;
 - (B) provide a certificate of coverage to it prior to that other person beginning work on the project;
 - (C) provide, prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during duration of the project;
 - (D) obtain from each other person under contract to it to provide services on the project, and provide as required by its contract:
 - (i) a certificate of coverage, prior to the other person beginning work on the project; and

- (ii) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the contract;
- (E) retain all required certificates of coverage on file for the duration of the project and for three (3) years thereafter;
- (F) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- (G) contractually require each other person with whom it contracts, to perform as required by subparagraphs (A) - (G) of this paragraph, with the certificate of coverage to be provided to the person for whom they are providing services.

If any provision or this rule of its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this rule that can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

This rule is applicable for building or construction contracts awarded by a governmental entity on or after September 1, 1994.

BID PROPOSAL

PROPOSAL OF _____

A corporation _____

A partnership consisting of _____

An individual doing business as _____

THE SAN ANTONIO WATER SYSTEM

Pursuant to Instructions and Invitations to Bidders, the undersigned proposes to furnish all labor and materials as specified and perform the work required for the construction of pipelines and appurtenances, San Antonio Water System Job Number 07-3004 in accordance with the Plans and Specifications for the following prices to wit:

PART 1, BORGFELD RD - WEST 16" OVERSIZED WATER MAIN (12" Required)

SAWS Item	DESCRIPTION & ESTIMATED QUANTITIES (Unit Price to be written in words)	UNIT PRICE (Figures)	TOTAL PRICE (Figures)
506 (TxDOT)	1 LS - Erosion & Sedimentation Controls; per Lump Sum _____ Dollars _____ Cents	\$XXXXXXXXXX	\$ _____
550	6,273 LF - Trench Excavation Safety Protection; per Linear Foot _____ Dollars _____ Cents	\$ _____	\$ _____
164 (TxDOT)	16,400 SY - Revegetation w/4" Topsoil; per Square Yard _____ Dollars _____ Cents	\$ _____	\$ _____
812A	5,746 LF - 16" Class 200 Water Pipe (open cut); per Linear Foot _____ Dollars _____ Cents	\$ _____	\$ _____
812B	774 LF - 16" Class 200 Water Pipe (In steel casing); per Linear Foot _____ Dollars _____ Cents	\$ _____	\$ _____
812C	80 LF - 16" Class 200 Water Pipe (bore no casing); per Linear Foot _____ Dollars _____ Cents	\$ _____	\$ _____
812D	497 LF - 16" Ductile Iron Class 250 Water Pipe (opencut); per Linear Foot _____ Dollars _____ Cents	\$ _____	\$ _____

Borgfeld Rd. - West 16" Oversize Water Main (12" Required)
 SAWS Job No. 07-3004
 Solicitation No. B-11-008-MR

SAWS Item	DESCRIPTION & ESTIMATED QUANTITIES (Unit Price to be written in words)	UNIT PRICE (Figures)	TOTAL PRICE (Figures)
812E	270 LF - 16" Ductile Iron Class 250 Water Pipe (In steel casing); per Linear Foot		
	Dollars		
	Cents	\$ _____	\$ _____
812F	30 LF - 12" Class 200 Water Pipe (open cut); per Linear Foot		
	Dollars		
	Cents	\$ _____	\$ _____
828A	11 EA - 16" Gate Valve (M.J.) with 6" Valve Box Complete; per Each		
	Dollars		
	Cents	\$ _____	\$ _____
828B	3 EA - 12" Gate Valve (M.J.) with 6" Valve Box Complete; per Each		
	Dollars		
	Cents	\$ _____	\$ _____
828C	25 EA - Valve Markers; Complete; per Each		
	Dollars		
	Cents	\$ _____	\$ _____
856A	1,044 LF - 30" Steel Casing Pipe; per Linear Foot		
	Dollars		
	Cents	\$ _____	\$ _____
856B	1,044 LF – Jacking & Boring of 30" Steel Casing; per Linear Foot		
	Dollars		
	Cents	\$ _____	\$ _____
834	11 EA - Fire Hydrant Assembly, Complete; per Each		
	Dollars		
	Cents	\$ _____	\$ _____
846	4 EA - 1" Combination Air Release Valve Assembly, Complete; per Each		
	Dollars		
	Cents	\$ _____	\$ _____
844A	1 EA - 2" Temporary Blowoff Assembly, Complete; per Each		
	Dollars		
	Cents	\$ _____	\$ _____

Borgfeld Rd. - West 16" Oversize Water Main (12" Required)
 SAWS Job No. 07-3004
 Solicitation No. B-11-008-MR

SAWS Item	DESCRIPTION & ESTIMATED QUANTITIES (Unit Price to be written in words)	UNIT PRICE (Figures)	TOTAL PRICE (Figures)
844B	1 EA - 2" Permanent Blowoff Assembly, Complete; per Each		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____
840A	1 EA – Tie-In New 16" WL to Existing 16" WL, Complete; per Each		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____
840B	2 EA – Tie-In New 12" WL to Existing 12" WL, Complete; per Each		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____
503A (CoSA)	300 SY - Remove and Replace Existing Asphalt Driveway; per Square Yard		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____
503B (CoSA)	138 SY - Remove and Replace Existing Concrete Driveway; per Square Yard		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____
503C (CoSA)	426 SY - Remove and Replace Existing Gravel Driveway; per Square Yard		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____
505 (TxDOT)	100 LF - Course Angular Gravel Trench Cap 3" - 5"; per Linear Foot		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____
201 (CoSA)	795 LF - Cement Stabilized Trench Cap; per Linear Foot		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____
404 (CoSA)	42 LF - Culvert Removal & Replacement; per Linear Foot		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____

Borgfeld Rd. - West 16" Oversize Water Main (12" Required)
 SAWS Job No. 07-3004
 Solicitation No. B-11-008-MR

SAWS Item	DESCRIPTION & ESTIMATED QUANTITIES (Unit Price to be written in words)	UNIT PRICE (Figures)	TOTAL PRICE (Figures)
467 (TxDOT)	4 EA - Culvert Sloped Safety Ends; per Each		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____
530 (TxDOT)	1 LS - Traffic Control; per Lump Sum		
	<u>Dollars</u>		
	<u>Cents</u>	\$XXXXXXXXXX	\$ _____
841	1 LS - Hydrostatic Testing; per Lump Sum		
	<u>Dollars</u>		
	<u>Cents</u>	\$XXXXXXXXXX	\$ _____
22 (CoSA)	1 LS - Tree Protection; per Lump Sum		
	<u>Dollars</u>		
	<u>Cents</u>	\$XXXXXXXXXX	\$ _____
316 (TxDOT)	39,300 SY - Existing Roadway Two Course Chip Seal Surface Treatment (quantity shown is double single course); per Square Yard		
	<u>Dollars</u>		
	<u>Cents</u>	\$ _____	\$ _____
A.	Subtotal Base Bid	\$ _____	

Borgfeld Rd. - West 16" Oversize Water Main (12" Required)
 SAWS Job No. 07-3004
 Solicitation No. B-11-008-MR

SAWS Item	DESCRIPTION & ESTIMATED QUANTITIES (Unit Price to be written in words)	UNIT PRICE (Figures)	TOTAL PRICE (Figures)
100	Mobilization 1 Lump Sum-Percent of the <u>Line Item "A"</u> Subtotal Base Bid written in words _____ Percent (Max. of 10% of the <u>Line Item "A"</u> Subtotal Base Bid Amount)	\$ <u>XXXXXXXXXX</u>	\$ _____
101	Preparation of Right-of-Way 1 Lump Sum-Percent of the <u>Line Item "A"</u> Subtotal Base Bid written in words _____ Percent (Max. of 5% of the <u>Line Item "A"</u> Subtotal Base Bid Amount)	\$ <u>XXXXXXXXXX</u>	\$ _____

Mobilization & Preparation of R.O.W. Subtotal: \$ _____

Mobilization lump sum bid shall be limited to a maximum 10% of the Line Item "A" Sub-total Base Bid amount. Preparation of Right-of-Way lump sum bid shall be limited to a maximum of 5% of the Line Item "A" Sub-total Base Bid amount. The Line Item "A" Sub-total base bid is defined as all bid items **EXCLUDING** Item 100, Mobilization and Item 101, Preparing Right-of-Way. **In the event of a discrepancy between the written percentage and dollar amount shown for Mobilization and Preparation of ROW bid items the written percentage will govern. If the percentage written exceeds the allowable maximum stated for mobilization and or preparation of ROW, SAWS reserves the right to cap the amount at the percentages shown and adjust the extensions of the bid items accordingly.**

TOTAL BID AMOUNT (Line A + Item 100 + Item 101) \$ _____

_____ **DOLLARS AND**
 _____ **CENTS**

 BIDDER'S SIGNATURE & TITLE

 FIRM'S NAME (TYPE OR PRINT)

 FIRM'S ADDRESS

 FIRM'S PHONE NO. /FAX NO.

 FIRM'S EMAIL ADDRESS

The Contractor herein acknowledges receipt of the following:
 Addendum Nos. _____

OWNER RESERVES THE RIGHT TO ACCEPT THE OVERALL MOST RESPONSIBLE BID.

The bidder offers to construct the Project in accordance with the Contract Documents for the contract price, and to complete the Project with **180** calendar days after the start date, as set forth in the Authorization to Proceed. **The bidder understands and accepts the provisions of the contract Documents relating to liquidated damages of the project if not completed on time.**

Complete the additional requirements of the Proposal which are included on the following pages.

PROPOSAL CERTIFICATION

Accompanying this proposal is a Bid Bond or Certified or Cashier's Check on a State or National Bank payable to the Order of the San Antonio Water System for _____ dollars (\$_____), which amount represents five percent (5%) of the total bid price. Said bond or check is to be returned to the bidder unless the proposal is accepted and the bidder fails to execute and file a contract within 10 calendar days after the award of the Contract, in which case the check shall become the property of said San Antonio Water System, and shall be considered as payment for damages due to delay and other inconveniences suffered by said San Antonio Water System due to the failure of the bidder to execute the contract. The San Antonio Water System reserves the right to reject any and all bids.

It is anticipated that the Owner will act on this proposal within 60 calendar days after the bid opening. Upon acceptance and award of the contract to the undersigned by the Owner, the undersigned shall execute standard San Antonio Water System Contract Documents and make Performance and Payment Bonds for the full amount of the contract within 10 calendar days after the award of the Contract to secure proper compliance with the terms and provisions of the contract, to insure and guarantee the work until final completion and acceptance, and the guarantee period stipulated, and to guarantee payment of all lawful claims for labor performed and materials furnished in the fulfillment of the contract.

It is anticipated that the Owner will provide written Authorization to Proceed within 30 days after the award of the Contract.

The Contractor hereby agrees to commence work under this Contract within seven (7) calendar days after issuance by the SAWS of the written Authorization to Proceed. Under no circumstances shall the work commence prior to Contractor's receipt of SAWS issued, written Authorization to Proceed. Work shall be completed in full within ___ consecutive calendar days.

The undersigned certifies that the bid prices contained in the proposal have been carefully checked and are submitted as correct and final.

In completing the work contained in this proposal the undersigned certifies that bidder's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin and that the bidder will affirmatively cooperate in the implementation of these policies and practices.

Signed: _____
Company Representative

Company Name

Address

Please return bidder's check to:

Company Name

Address



**GOOD FAITH EFFORT PLAN FOR
CONSTRUCTION SUB-CONTRACTS
FOR**

NAME OF PROJECT: _____

SECTION A - CONTRACTOR INFORMATION:

Name of Firm: _____

Address: _____

City: _____ **State:** _____ **Zip:** _____

Contact Person: _____ **Telephone:** _____

Email Address: _____ **Fax:** _____

Is your firm Certified: Yes _____ No: _____ **If certified, Certification Number:** _____

Type of Certification: _____ **AABE** _____ **DIBE** _____ **MBE** _____ **WBE**
 _____ **SBE** _____ **VBE** _____ **HUB** _____ **DBE**

1. List ALL SUBCONTRACTORS/SUPPLIERS that will be utilized on this project/contract.

Name & Address of Company	Scope of Work/Supplies to be Performed/Provided by Firm	Estimated Contract Amount on this Project	If Firm is Certified, Provide Certification Number and attach copy of Certification Affidavit
1.			
2.			
3.			
4.			
5.			
6.			

SECTION B. – SMWB COMMITMENTS

The SMWB goal on this project is 17%

1. The under signed contractor has satisfied the requirements of the BID specification in the following manner (please check the appropriate space):

The contractor is committed to a minimum of ___ % SMWB utilization on this contract.

The contractor (if unable to meet the SMWB goal of ___%) is committed to a minimum of _____% SMWB utilization on this contract. *(If contractor/consultant is unable to meet the goal, please fill out Section C and submit documentation demonstrating good faith efforts).*

2. Name and phone number of person appointed to coordinate and administer the SMWB requirements on this project.

Name: _____

Title: _____

Phone Number _____

IF THE SMWB GOAL WAS MET, PROCEED TO AFFIRMATION AND SIGN THE GFEP. IF GOAL WAS NOT MET, PROCEED TO SECTION C.

During the term of the contract, the contractor must report the actual payments to all the SMWB subcontractors on a monthly basis, on the "Subcontractor Report Form" or in other specified time intervals and format prescribed by the SAWS. Any unjustified failure to comply with the levels of SMWB participation identified in the bid and affirmed in the Good Faith Effort Plan shall be considered a material breach of contract. The SAWS reserves the right, at any time during the term of the contract to request additional information, documentation or verification of payments made to subcontractors in connection with the contract. Verification of amounts being reported may take the form of requesting copies of canceled checks paid to SMWB participants and/or confirmation inquiries directly to the SMWB participants. Proof of payments, such as copies of canceled checks must properly identify the project name or project number to substantiate SMWB payment for this project.

The completed Subcontractor Report Forms should be mailed to:

San Antonio Water System
SMWB Program
2800 U. S. Hwy 281 N., Suite 171
San Antonio, TX 78212

SECTION C – GOOD FAITH EFFORTS (Fill out only, if the SMWB goal was not achieved).

1. List all firms you contacted with subcontracting/supply opportunities for this project that will not be utilized for the contract by choice of the contractor, subcontractor, or supplier. Written notices to firms contacted by the contractor for specific scopes of work identified for subcontracting/supply opportunities must be provided to subcontractor/supplier not less than five (5) business days prior to bid/proposal due date. The following information is required for all firms that were contacted of subcontracting/supply opportunities.

Name & Address of Company	Scope of Work/Supplies to be Performed/Provided by Firm	Is Firm SMWB Certified?	Date Written Notice was Sent & Method (Fax, Letter, E-Mail, etc.)	Reason Agreement was not reached?
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

(Use additional sheets as needed)

In order to verify a contractor’s good faith efforts, please provide to SAWS copies of the written notices to all firms contacted by the contractor for specific scopes of work identified in relation to the subcontracting/supply opportunities in the above named project. Copies of said notices must be provided to the Business Development Liaison with five (5) business days after the bid is due. Such notices shall include information on the plans, specifications, and scope of work.

2. Did you attend the pre-proposal conference scheduled for this project? ____ Yes ____ No

3. List all SMWB listings or directories, contractor associations, and/or any other associations utilized to solicit SMWB Subcontractors/suppliers.

4. Discuss efforts made to define additional elements of the work proposed to be performed by SMWBs in order to increase the likelihood of achieving the goal:

5. Indicate advertisement mediums used for soliciting bids from SMWBs. (Please attach a copy of the advertisement(s):

AFFIRMATION

I hereby affirm that the above information is true and complete to the best of my knowledge. I further understand and agree that, this document shall be attached thereto and become a binding part of the contract.

Name and Title of Authorized Official:

Name: _____

Title: _____

Signature: _____ Date: _____

NOTE:

This Good Faith Effort Plan is reviewed by SAWS Contracting Department. For questions and/or clarifications, please contact the SMWB Program Manager, Marisol V. Robles at (210) 233-3420. If the SMWB goal was not met, the Business Development Liaison will evaluate the "good faith efforts" of a firm. The Good Faith Effort Plan must be approved prior to award of the contract.

Recommendation: Approval: _____ Denial: _____

Signature of Business Development Liaison: _____

Date: _____

SUBCONTRACTOR / CONSULTANT REPORT

San Antonio Water System 2800 U.S. Hwy. 281 North San Antonio, Texas 78212		1) Invoice No.	2) Job Name/Reporting Period From: _____ To: _____	3) SAWS Job Number
Instructions: All prime contractors are required to complete and submit this report until final payment of contract. To complete this report, we detailed instructions on reverse side. If you have any questions, please contact the SMWB Program Manager Marisol V. Robles at 210.233.3420.				
4) Type of Contract - Select from Drop-down below: (Tab down)		5) Contractor's/Consultant's Business Name, Address, and Telephone Number		6) Date of Contract Award
7) Scheduled Date of Completion				
8) Original Contract Amount	9) Current Contract Amount (Including Change Orders/Additional Addendums)	10) Total Contract Amount Rec'd to Date		11) Total Contract Amount Owed
12) Proposed Participation SBE _____% MBE _____% WBE _____%		13) Instructions for calculation of SMWB Percentage: Total dollar amount paid to SMWB divided by total dollar am		14) Name, Address, & Phone Number of Subcontractor/Sub Consultant
				15) Select from Drop-down Below:
16) Description of Subcontract Work	17) Subcontract Dollars Awarded	18) Subcontract Amount Paid to Date	19) Subcontract % Paid to Date	
				SBE, MBE, WBE
				SBE
				MBE
				WBE
Company's Official Signature and Title		Date Signed		Name & Title of Individual Completing Report

SAWS Subcontractor Payment Compliance

SAWS has acquired the B2GNow subcontractor payment information application, a web-based reporting system to track subcontractor payment compliance for prime contractors and consultants. This system is scheduled to be in full use by the end of January 2011, therefore contractors and consultants are advised that the use of this system will be a requirement for this project. Listed below are the reporting requirements and link to the B2GNow portal on SAWS' web site.

Web Submittal of Subcontractor Payment Reports

Each prime contractor/consultant will be contractually-required to submit monthly subcontractor payment information electronically, utilizing the SAWS web-based subcontractor payment reporting system application as of the first SAWS' payment for services under the contract and with every payment thereafter for the duration of the agreement.

Electronic submittal of monthly subcontractor payment information will be accessed through a link on SAWS' "Business Center" web page. Each contractor and subcontractor will be provided a unique logon credential and password to access the SAWS subcontractor payment reporting system.

Training on the use of the system will be provided by SAWS and B2GNow telephone support. Electronic submittals will require data entry of the amount paid to each subcontractor listed on the prime's Good Faith Effort Plan after the prime receives payment from SAWS.

Additional information on the B2GNow system can be found at the following website:

<http://www.b2gnow.com/>

During the term of the contract, the contractor must report the actual payments to all the SMWB subcontractors on a monthly basis, on the “Subcontractor Report Form” or in other specified time intervals and format prescribed by the SAWS. Any unjustified failure to comply with the levels of SMWB participation identified in the bid and affirmed in the Good Faith Effort Plan shall be considered a material breach of contract. The SAWS reserves the right, at any time during the term of the contract to request additional information, documentation or verification of payments made to subcontractors in connection with the contract. Verification of amounts being reported may take the form of requesting copies of canceled checks paid to SMWB participants and/or confirmation inquiries directly to the SMWB participants. Proof of payments, such as copies of canceled checks must properly identify the project name or project number to substantiate SMWB payment for this project.

The completed Subcontractor Report Forms should be mailed to:

San Antonio Water System
SMWB Program
2800 U. S. Hwy 281 N., Suite 171
San Antonio, TX 78212

CONFLICT OF INTEREST QUESTIONNAIRE NOTE:

“Effective January 1, 2006, Chapter 176 of the Texas local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with SAWS shall file a completed conflict of interest questionnaire with the SAWS Manager of Contract Administration no later than the 7th business day after the date that the person: (1) begins contract discussions or negotiations with SAWS; or (2) submits to SAWS an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with SAWS. The Conflict of Business questionnaire is attached on the following page and is available from the Texas Ethics Commission at www.ethics.state.tx.us. Completed Conflict of Interest questionnaires should be included with your bid or may be delivered by hand, within 7 business days of the bid opening, to the Manager of Contract Administration. If mailing a completed Conflict of Interest questionnaire, mail to: David Gonzales, Manager, Contract Administration, 2800 U.S. Hwy 281 North, San Antonio, TX 78212. If delivering a completed Conflict of Interest questionnaire, deliver to Contract Administration, Tower 2, 1st Floor, Room 171, 2800 U.S. Hwy 281 North, San Antonio, TX 78212. Please consult your own legal advisor if you have questions regarding the statute or form.”

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of person who has a business relationship with local governmental entity.

2 Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name of local government officer with whom filer has employment or business relationship.

Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

Yes No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes No

D. Describe each employment or business relationship with the local government officer named in this section.

4

Signature of person doing business with the governmental entity

Date

SAN ANTONIO WATER SYSTEM

GENERAL CONDITIONS

CONTENTS

- I. Contract Definitions**
- II. Legal Relationships & Responsibilities**
- III. Contract Documents & Bonds**
- IV. Contract Administration**
- V. Contract Responsibilities**
- VI. Contract Changes**
- VII. Contract Payments**
- VIII. Contract Completion Time**
- IX. Project Completion and Acceptance**
- X. Disputes**
- XI. Supplemental and Special Conditions**

SAN ANTONIO WATER SYSTEM

GENERAL CONDITIONS

ARTICLE I. CONTRACT DEFINITIONS:

Wherever in these General Conditions or in other parts of the Contract Documents, the following terms, or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

1. ACPA - American Concrete Pipe Association.
2. ANSI - American National Standards Institute.
3. ASTM - American Society for Testing Materials.
4. AUTHORIZATION TO PROCEED - (Work Project Authorization) A written notice given by Owner to Contractor establishing the date on which the Contract Time will commence to run and on which Contractor shall start to perform Contractor's obligations under the Contract Documents.
5. AWWA - American Water Works Association.
6. BIDDER - An individual, partnership, corporation, etc., submitting a proposal.
7. BOARD - Board of Directors of the San Antonio Water System.
8. CITY COUNCIL - The duly elected members of the council of the City of San Antonio, Texas.
9. CONDITIONAL LETTER OF APPROVAL - The date certified in writing by the Owner when the Construction of the Project is sufficiently completed in accordance with the Contract Documents.
10. CONSTRUCTION OBSERVER/INSPECTOR - "COI", The authorized representative of the Owner assigned by the Owner to observe and inspect any or all parts of the Project and the materials to be used therein.
11. CONSULTANT - A person registered as a professional engineer pursuant to Article 3271a, Vernon's Texas Civil Statutes employed to provide professional engineering services and having overall responsibility for the design of a project or a significant portion thereof, together with administrative supervision of any subconsultants Consultant may retain. The term "Consultant", unless the context clearly indicates otherwise, means an engineer in private practice retained for a specific project under a contractual agreement with the Owner.
12. CONTRACT - The signatory Agreement (Standard Form) between the SAWS and the Contractor governing the furnishing of material and performance of the Work. The Contract will include the Contract Documents.
13. CONTRACT DOCUMENTS - The Contract Documents consist of Bidding Documents such as: the Advertisement or Invitation to Bid, the Instructions to Bidders, the Contractor's completed Bid Proposal form, the Addenda, the Contract, the Conditions of the Contract (General, Supplemental and Special Conditions), the Plans, the Specifications, the Change Orders, the Payment and Performance Bonds.
 - (i) The Contract Documents form the complete CONTRACT, which represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral.
14. CONTRACT SUM - The total compensation payable to the Contractor for performing the Work as originally contracted or as subsequently adjusted by Change Orders.
15. CONTRACT TIME - The total time allowed the Contractor for completion of the Work. Contract Time

will commence as per paragraph 8.1 and shall include the number of days set forth in the Contract plus any extended days granted under the provisions of Paragraph 6.1.

16. CONTRACTOR - The individual, partnership, corporation, etc., contracting with the SAWS as Owner to complete the Work.
17. ENGINEER - The Vice President of Engineering or his duly authorized representative, either or both being a duly authorized representative of the Owner.
18. CHANGE ORDER - A written order issued by the SAWS to the Contractor authorizing additions, deletions, or revisions to the Work to be performed by Contractor within the general scope of construction services outlined in the Contract Documents.
19. HAZARDOUS MATERIAL(S)/SUBSTANCE - Pursuant to Section 26.263 of the Water Code hazardous material means any material/substance designated as such by the administrator of the Environmental Protection Agency pursuant to the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. Sec. 9601 et seq.) regulated pursuant to Section 311 of the Federal Clean Water Act (33 U.S.C. Sec. 1321 et seq.) or designated by the Commission.
20. INSTRUCTIONS TO BIDDERS - Owner Instructions of a general nature outlining the duties and responsibilities of a prospective bidder.
21. LABORATORY - The testing laboratories of the SAWS or any other testing laboratory that may be designated or approved by the Owner.
22. MAJOR BID ITEM - Any individual Bid Item submitted by Contractor that constitutes five percent (5%) minimum of the total Contract Sum proposed by the successful low bidder Contractor or, the dollar amount shown in the Special Conditions as constituting a "Major Bid Item", whichever is less. In spite of the general criteria above, the Owner and Consultant reserve the right to identify or exclude specific Bid Items as being "Major", in the Special Conditions for each Project.
23. MINORITY BUSINESS ENTERPRISE - (hereinafter referred to as MBE) a corporation, partnership, sole proprietorship or any other such legal entity which is owned, operated and controlled by a minority group member(s) who, when combined, have 51 percent ownership. The minority group member(s) must have operational and managerial control, interest in capital and earnings commensurate with the percentage of minority ownership. For purposes of the SMWBP, the following are recognized as minority groups:
 - .1 African-Americans - persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian or West Indian.
 - .2 Hispanic Americans - persons of Mexican, Puerto Rican, Cuban, Spanish, or Central or South America origin.
 - .3 American Indians - persons having no less than 1/16 percentage origin in any of the American Indian tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal documents.
 - .4 Asian-Pacific Americans - persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
 - .5 Asian-Indian Americans - includes persons whose origins are from India, Pakistan, Bangladesh and Sri Lanka.
 - .6 Disabled Individual - persons (1) with one or more disabilities as defined by the Americans with Disabilities Act (ADA) and amendments thereto, (2) having a record of such disabilities and (3) regarded as having such disabilities.
24. MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) - A conveyance or system of conveyances (including roads with drainage systems, municipal streets catch basins, curbs, gutters, ditches, man-

made channels or storm drains:

- (i) Owned or operated by a State, City, town, borough, county, district association or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial waters, storm water or other wastes including special districts under State law such as a sewer district, flood control district or drainage district or similar entity or a designated and approved management agency under Section 208 of the Clean Water Act that discharges to water of the United States;
 - (ii) Designated or used for collection or conveying storm water.
 - (iii) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.
- 25. NEMA - National Electrical Manufacturers Association.
 - 26. NFPA - National Fire Protection Association
 - 27. NON-HAZARDOUS MATERIAL(s)/SUBSTANCES - Any material(s)/substance which is not designated as hazardous pursuant to Definition 17 herein and the continued presence of such on the site is determined by the Owner's representative not to be detrimental to the completion of the Project.
 - 28. OWNER - See San Antonio Water System.
 - 29. OWNER'S REPRESENTATIVE - The Vice President of Engineering or his duly authorized representative.
 - 30. PAYMENT BOND - The security furnished by the Contractor through the Surety in the full amount of the Contract Sum for the protection of all persons supplying labor and material in the prosecution of the Work who properly follow statutory requirements for perfecting claims against such security." If the contract amount does not exceed \$25,000, a Payment Bond is not required.
 - 31. PERFORMANCE BOND - The security furnished by the Contractor through the Surety in the full amount of the Contract Sum as a guaranty that the Work will be faithfully performed and completed and that the Owner will be saved harmless from all costs and damages which the Owner may suffer by reason of the Contractor's default or failure to perform the Work. If the contract amount does not exceed \$25,000, a Performance Bond is not required.
 - 32. PLANS - The Plans, drawings, details and supplemental drawings, or reproductions thereof, produced and sealed by the Consultant and/or Engineer and approved by the Owner, showing the location, character, dimensions and details of the Work and which are a part of the Contract. Plans include standard details issued and sealed by the Engineer or his representative.
 - 33. PROJECT - Work site and Work elements with all appurtenances and construction to be performed thereon under the Contract.
 - 34. PROPOSAL - The offer of the bidder, made out on the prescribed forms, giving prices for performing the work described in the plans and specifications.
 - 35. SAMPLES - Physical examples furnished by the Contractor to Owner to illustrate intended or anticipated materials, equipment or workmanship, and to assist Owner and Consultant in the establishment of workmanship and quality standards by which the Work will be judged.
 - 36. SAN ANTONIO WATER SYSTEM - San Antonio Water System (SAWS) shall mean the San Antonio Water System Board of Trustees as established pursuant to Article 1115, Texas Revised Civil Statutes Annotated and City of San Antonio Ordinance No. 75686. Whenever in this contract is found the term the SAWS or Owner the same shall, unless indicated otherwise, be understood to mean the San Antonio Water System Board of Trustees, or its successors or any person or persons acting lawfully in an official capacity on behalf of the SAWS at such time and within the power and authority specifically delegated to him or them by this Contract.
 - 37. SEPARATED CONTRACT - A contract in which the agreed contract price is divided into a separately stated agreed contract price for materials and a separately stated agreed contract price for skill and labor. If prices of materials and labor are separately stated the fact that the charges are added together and a sum total given is

irrelevant. Cost-plus contracts are generally regarded as separated contracts.

38. SEQUENCE OF CONSTRUCTION - The logical and proper order in which the Contractor shall accomplish the Work by Owner directed stages and phases, as shown in the Contract Documents, unless Owner orders otherwise by a properly executed Change Order.
39. SHOP DRAWINGS - Drawings, diagrams, illustrations, schedules, performance charts, brochures and other data which are furnished by the Contractor and prepared by Contractor, first-tier or subtier subcontractors, manufacturer, supplier or distributor, and which illustrates and details some portion of the Work.
40. SMALL, MINORITY AND WOMAN BUSINESS - (hereinafter referred to as SMWB) includes all those business enterprises inclusive of sole proprietorships, partnerships, corporations and all other such legal entities that are either classified as small, or are owned, operated and controlled by minority group members, women, or disabled individuals.
41. SMALL BUSINESS ENTERPRISE - (hereinafter referred to as SBE) a corporation, partnership, sole proprietorship or other such legal entity which is independently owned and operated and which is less than 20 percent of the U.S. Small Business Administration (SBA) size standard for a small business, except in cases where the reduced definition drops below \$1 million average gross receipts (as based on three years of sales) or less than 100 employees.
42. SPECIFICATIONS - The specific instructions to the Contractor as to the requirements for materials, equipment, certain construction procedures, standards and quality of workmanship for the Work and performance of related services and forming a part of the Contract.
43. SUBCONTRACTOR - The individual, firm or corporation, having a first tier subcontract with the prime or general Contractor, subject to the review of qualifications by the Consultant and the Owner's Representative, for the performance of a part of the Work. Subtier subcontractors must be identified by the subcontractors and be similarly subject to the review of qualifications by the Consultant and the Owner's Representative for the performance of a part of the Work.
44. SUBSTANTIAL COMPLETION - When construction of the project or a specified part thereof is sufficiently completed in accordance with the Contract Documents so that the Project, or specified part thereof could be utilized for the Owner's purposes for which it is intended.
45. SUPERINTENDENT - The on project site representative of the Contractor authorized to communicate with the SAWS's Construction Observer/Inspector ("COI"), pursuant to the terms of the contract. The Superintendent or his designee shall supervise and direct the construction Work.
46. SUPPLEMENTARY CONDITIONS - The part of the Contract Documents, which amends or supplements these General Conditions.
47. SURETY - The corporate body licensed to conduct business in the State of Texas that provides assurance that the Contractor, or his substitute will faithfully perform the Work covered by the Contract and make payment of any due, unpaid, eligible labor and supply claims arising thereunder.
48. THD TEST METHOD - (TX DOT) Materials and Test Division manual outlining testing methods and procedures.
49. UNDERGROUND FACILITIES - All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments and appurtenances thereto, and any encasement containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, sewage and drainage removal, traffic or other control systems.
50. UNIT PRICE WORK - Work to be paid for by Owner on the basis of Contractor quoted unit prices in the Bid Proposal based upon Owner estimated quantities.
51. WOMAN BUSINESS ENTERPRISE - (hereinafter referred to as WBE) a corporation, partnership, sole

proprietorship or any other such legal entity which is owned, operated and controlled by women who, when combined, have 51 percent ownership. The women must have operational and managerial control, interest in capital and earnings commensurate with the percentage of women ownership.

52. WORK - The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of Contractor performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.
53. WRITTEN NOTICE - Shall be considered to have been duly given if delivered in person to an authorized representative of the Contractor or Owner, or to an officer of the corporation for whom it is intended, or if delivered at, or sent by registered or certified mail to the last business address known to the person who gives the notice.

ARTICLE II. LEGAL RELATIONSHIPS AND RESPONSIBILITIES

- 2.1 LEGAL RESPONSIBILITIES - The Contractor in the performance of the Work shall comply with all pertinent Ordinances of the City of San Antonio (COSA), Regulations of the San Antonio Water System (SAWS), Laws of the State of Texas, and of the United States, including Rules and Regulations of the United States Department of Labor, pertaining to Occupational Safety and Health Administration standards as presently existing or as may hereinafter be modified or amended.
 - .1 Where construction projects cross or run along state highways, the Contractor shall comply with governing Texas Department of Transportation Regulations as outlined in State Permits for each crossing. In cases where State Regulations do not apply, City Regulations shall be binding.
 - .2 Where construction projects cross or run along county roads, the Contractor shall comply with governing Bexar County Public Works Regulations as outlined in the County Permit for each crossing.
- 2.2 GENERAL UNDERSTANDING - Contractor at his own cost and expense shall furnish all supervision, tools, implements, machinery, labor, materials and accessories, such as are necessary and proper for the purpose, and secure all required permits and licenses, and shall at his own cost and expense construct, build and complete, in a good, first class, substantial and workmanlike manner, the structures, work and improvements herein described and/or referred to in the Contract Documents.
- 2.3 INDEMNIFICATION - Contractor shall protect the public, SAWS, and COSA fully by taking reasonable precaution to safeguard persons from death or bodily injury and to safeguard property of any nature whatsoever from damage. Where any dangerous condition or nuisance exists in and around construction sites, equipment and supply storage areas, and other areas in anyway connected with the performance of this contract, the Contractor shall provide and maintain reasonable warning of such danger or nuisance. The Contractor shall not create excavation, obstructions, or any dangerous condition or nuisance of any nature whatsoever in connection with the performance of this contract unless necessary to its performance, and in that event the Contractor shall provide and maintain at all times reasonable means of warning of any danger or nuisance created. The duties of the Contractor in this section shall be nondelegable, and the Contractor's compliance with the specific recommendations and requirements of the San Antonio Water System or the City of San Antonio as to the means of warning shall not excuse the Contractor from the faithful performance of these duties should such recommendations and requirements not be adequate or reasonable under the circumstances.

In order to protect SAWS and COSA the Contractor's failure to perform any of the foregoing duties or any of the terms of this contract, the Contractor shall indemnify and save harmless **SAWS, COSA** and their agents and employees from all losses, damages, judgments, decrees, and expenses or costs of any nature whatsoever, arising out of or in anyway connected with any claims or actions at law or in equity, brought against SAWS, COSA and their agents and employees for the death or injury to persons or for damage to property caused, or allegedly caused, by any willful acts, negligence, nuisance, or breach of any term or condition of this contract in connection with work to be performed pursuant to said contract, by the Contractor, his agents, subcontractors, or employees. The Contractor shall furthermore indemnify and save harmless SAWS and COSA and their agents and employees from all demands of subcontractors, workmen,

materialmen, or suppliers of machinery and parts thereof, equipment, power tools, and supplies incurred in connection with work to be performed under this contract. Property of any description, including property SAWS and COSA, which shall be damaged in the performance of this contract by the Contractor, his agents, employees, subcontractors or their employees and subcontractors shall be restored to its condition prior to damage by the Contractor at the Contractor's expense.

SUCH INDEMNITY SHALL APPLY WHERE THE CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, JUDGEMENTS, DECREES, OR LIABILITY ARISE IN PART FROM THE NEGLIGENCE OF SAWS OR COSA. IT IS THE EXPRESSED INTENTION OF THE CONTRACTOR, SAWS AND COSA THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONTRACTOR, TO INDEMNIFY AND PROTECT SAWS AND COSA FROM THE CONSEQUENCES OF THEIR OWN NEGLIGENCE, WHERE THE NEGLIGENCE IS A CONCURRING CAUSE OF THE INJURY, DEATH, OR DAMAGE. FURTHERMORE, THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS, DEATH OR DAMAGE RESULTS FROM THE SOLE NEGLIGENCE OF SAWS AND COSA UNMIXED WITH THE FAULT OF ANY PERSON OR ENTITY.

In any claims against SAWS or COSA or their agents or employees by CONTRACTOR, any employee of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by CONTRACTOR, or any subcontractor or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any subcontractor under workers' compensation acts, disability benefit acts of other employer's benefit acts.

- 2.4 ROYALTIES AND PATENTS - The Contractor shall pay all royalties and license fees, and defend all suits or claim for infringement of any patent rights and shall save the SAWS harmless from loss on account thereof, except that the SAWS shall be responsible for all such royalties and license fees and loss when a particular design or process, or the product of a particular manufacturer or manufacturers is specified; provided, however, if the Contractor has reason to believe the design, process or product specified constitutes an infringement of a patent, he shall be responsible for such royalties, license fees and loss unless he promptly gives such information to the Owner.
- 2.5 NO WAIVER OF SAWS RIGHTS - Unless specifically and unambiguously set out in the Contract Documents at the time of bid opening, no observation/inspection or approval by said Owner or any COI, officer or employee of the Owner, or any order, measurement or certificate by said Owner, or any estimate or payment by the Owner for any part of said Work, or material or method or equipment, or any extension of time, or any possession of the Work, at any time shall operate as a waiver of any provision or obligation of this Contract or any right or power herein given or reserved to said Owner, or of any right to claim any indemnity or damages for patent or latent defects in the work or otherwise as herein provided for; nor shall any Owner waiver of any Contractor breach of this Contract be deemed as a waiver of any other or subsequent Contractor breach; and every Owner right or remedy under the Contract Documents shall be cumulative, and in addition to all other Owner rights and remedies.
- 2.6 INTEREST IN SAWS CONTRACT PROHIBITED - No officer or employee of the SAWS shall have a financial interest, direct or indirect, in any contract with the SAWS, or shall be financially interested, directly, in the sale to the SAWS of any land, materials, supplies or service, except on behalf of the SAWS as an officer or employee. This prohibition extends to the City Public Service Board, City of San Antonio, and City boards and commissions other than those, which are purely advisory.
- 2.7 EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS/NONDISCRIMINATION CLAUSE -The San Antonio Water System highly encourages contractors to implement Affirmative Action practices in their employment programs. This means contractor should not discriminate against any employee or applicant for employment because of race, color, national origin religion, sex, age, handicap or political belief or affiliation.
- 2.8 SMALL, MINORITY, AND WOMEN BUSINESS PROGRAM(SMWBP) REQUIREMENTS - The San Antonio Water System highly encourages contractors to form joint ventures and/or provide subcontract opportunities to small, minority and woman business (SMWB) firms. The San Antonio Water System Good Faith Effort Plan will be used to report small, minority, and woman firm participation. This Plan will be submitted as part of the bid package and will be reflected as part of the total construction contract

documents.

- 2.9 STATE SALES TAX - The Owner qualifies for exemption from state and local sales tax and will furnish the Contractor with a tax exemption certificate. It is the Contractor's responsibility to claim exemption from payment of applicable state and local sales taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts. The Contract separates the cost of materials and tangible equipment from skill, labor and other associated costs of construction. This is in accordance with the Texas Tax Code to allow tax exemption on the Contract price for materials. Certain construction equipment that is owned or rented by the CONTRACTOR may be subject to State and Local Sales Tax.

ARTICLE III. CONTRACT DOCUMENTS & BONDS

- 3.1 PLANS AND SPECIFICATIONS - The Plans and the accompanying Specifications are essential parts of the Contract and a requirement occurring in one is as binding as though occurring in all. They are intended to be cumulative and complementary and to provide for a complete Work. In cases of disagreement, figured dimensions shall govern over scaled dimensions, detailed Plan Drawings and accompanying notations shall govern over General Plan Drawings, and Special Conditions shall govern over Specifications, Plan Drawings and General Conditions.
- 3.2 INTENT OF THE CONTRACT DOCUMENTS is to describe a functionally complete Project (or integral component part thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied by Contractor whether or not specifically called for by SAWS or its Consultant. When words which have a well-known technical or trade meaning are used to describe work, materials or equipment such words shall be interpreted in accordance with that meaning. Where phrases "directed by", "ordered by" or "to the satisfaction of" "the Consultant" or "the SAWS's Construction Observer/Inspector" (COI) occur, it is to be understood that the directions, orders, or instructions to which they relate are within the scope of, and authorized by the Contract Documents. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or Laws or Regulations in effect at the time of opening of Bids except as may be otherwise specifically stated.
- 3.3 DISCREPANCY IN CONTRACT DOCUMENTS - If, during the performance of the Work, Contractor finds a conflict, error or discrepancy in the Contract Documents, Contractor shall so report to Consultant or Owner in writing at once and before proceeding with the Work affected thereby and shall obtain a prompt written interpretation or clarification from Consultant; however, Contractor shall not be liable to SAWS or Consultant for failure to report any conflict, error or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof or should reasonably have known thereof.
- 3.4 PLANS AND SPECIFICATIONS AT THE WORK SITE - The Contractor shall maintain at the Work site at least one copy of all Plans Specifications, Addenda, approved Shop Drawings and Change Orders, in good order and marked to record all changes to the Plans and/or existing physical conditions made during construction.
- .1 RECORD DRAWINGS - Each month as the Work progresses and before monthly payment and the final payment to the Contractor, the Contractor who has control of the Work and is in a position to know how the Project was constructed, shall submit to the Consultant, within 10 days after Final Acceptance, a set of clearly marked Plans and related documents suitable for Consultant's use in preparing Owner's final "Record Drawings" on reproducible mylar for the SAWS's permanent file.
- 3.5 PERFORMANCE BOND - CONTRACTOR shall furnish Performance Bond in favor of SAWS in an amount equal to 100% of the total construction cost under this Contract. Total construction cost are defined as the entire cost of materials and their installation, and include, but are not limited to, the cost of labor, equipment, supplies, materials and additional construction costs. The Performance Bond shall: (1) guarantee the completion of the entire construction herein identified in conformity with the Plans and Specification approved by SAWS, and (2) guarantee the work against defects in workmanship and materials for a period of twenty four (24) months after acceptance of the work by the San Antonio Water System. The bond shall have corporate Sureties that are licensed to conduct business in Texas. The contractor agrees that the following shall apply to bonds provided by a surety:

If any bond is in an amount in excess of 10 percent of the surety company's capital and surplus, the San Antonio Water System shall require, as a condition to accepting the bond, written certification that the surety company has reinsured the portion of the risk that exceeds 10 percent of the surety company's capital and surplus with one or more reinsurers who are duly authorized, accredited, or trustee to do business in this state. The amount reinsured by any reinsurer may not exceed 10 percent of the reinsurer's capital and surplus.

If the amount of the bond exceeds \$100,000, the surety must also:

- (1) hold a certificate of authority from the United States secretary of the treasury to qualify as a surety on obligations permitted or required under federal law; or
- (2) have obtained reinsurance for any liability in excess of \$100,000 from a reinsurer that is authorized and admitted as a reinsurer in this state and is the holder of a certificate of authority from the United States secretary of the treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law.

If the surety on any bond furnished by the CONTRACTOR to the BOARD is declared bankrupt or becomes insolvent, or has its right to do business revoked in the State of Texas, then the CONTRACTOR will have ten (10) days to substitute another bond and surety therefor which shall be acceptable to SAWS and which shall be at the expense of the CONTRACTOR.

- 3.6 PAYMENT BOND - CONTRACTOR shall furnish Payment Bond in favor of SAWS in an amount equal to 100% of the total construction cost under this Contract. Total construction costs are defined as the entire cost of materials and their installation, and include, but are not limited to, the cost of labor, equipment, supplies, materials and additional construction costs. The Payment Bond shall be security for the payment of all persons supplying labor and material in the prosecution of the Work provided for in the Contract Documents. The contractor agrees that the following shall apply to bonds provided by a surety:

If any bond is in an amount in excess of 10 percent of the surety company's capital and surplus, the San Antonio Water System shall require, as a condition to accepting the bond, written certification that the surety company has reinsured the portion of the risk that exceeds 10 percent of the surety company's capital and surplus with one or more reinsurers who are duly authorized, accredited, or trustee to do business in this state. The amount reinsured by any reinsurer may not exceed 10 percent of the reinsurer's capital and surplus.

If the amount of the bond exceeds \$100,000, the surety must also:

- (1) hold a certificate of authority from the United States secretary of the treasury to qualify as a surety on obligations permitted or required under federal law; or
- (2) have obtained reinsurance for any liability in excess of \$100,000 from a reinsurer that is authorized and admitted as a reinsurer in this state and is the holder of a certificate of authority from the United States secretary of the treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law.

The bonds shall have corporate Sureties that are licensed to conduct business in Texas. If the surety on any bond furnished by the CONTRACTOR to the BOARD is declared bankrupt or becomes insolvent, or has its right to do business revoked in the State of Texas, then the CONTRACTOR will have ten (10) days to substitute another bond and surety therefore which shall be acceptable to SAWS and which shall be at the expense of the CONTRACTOR.

- 3.7 CONTRACTOR AND SURETIES STILL BOUND - No assignment, transfer or subletting, without the written consent of SAWS, and no order of SAWS for or approval of any alterations or modifications in said Specifications, Plans, or Work, and no change in the requirements or order for extra work made by the SAWS as provided in this Contract, shall ever in any manner release or diminish the responsibility of Contractor or any Surety on any bond of Contractor, but on the contrary, such responsibility shall extend to and comprehend all such changes and other matters. If any Surety upon any bond furnished in connection with the Contract becomes insolvent, or otherwise not authorized to do business in this State, the Contractor shall within ten (10) days furnish equivalent substitute forms of security while seeking substitute bonding, to protect the interests of the SAWS and of persons supplying labor or materials in the

prosecution of the Work contemplated by the Contract, or may be liable for breach of Contract and default termination.

ARTICLE IV. CONTRACT ADMINISTRATION

4.1 GENERAL ADMINISTRATION - (Plans and Specifications by Consultant). The Consultant will provide general administration of the Contract during construction in accordance with the Consultant's scope of work as defined in the Consultant's Contract with the SAWS.

- .1 The Consultant has the authority to act on behalf of the Owner to the extent provided in the Construction Contract Documents. The Consultant will advise and consult with the Owner. The Owner's instruction to the Contractor may be issued through the Consultant but the Owner reserves the right to issue instructions directly to the Contractor through other designated SAWS representatives. Contractor understands that SAWS may modify the authority of such Consultant as provided in the terms of its contract relationship with the Consultant, and the Owner shall, in such event, be vested with powers formerly exercised by such Consultant, provided written notice of such modification shall be immediately served on the Contractor. Nothing herein shall authorize independent agreements between Contractor and such Consultant, nor shall the Consultant be deemed to have a legal relationship with the Contractor.
- .2 All oral instructions shall be confirmed expeditiously in writing with copies furnished the Consultant, the Owner's designated representatives, and the Contractor by the party issuing the oral instruction.
- .3 Upon the Consultants written recommendation, the Owner's Representative shall have the final authority to reject Work performed by the Contractor which does not meet the requirements of the contract, and to order such Work repaired, removed, or replaced in accordance with Paragraph 5.11.

4.2 GENERAL ADMINISTRATION - (Plans and Specifications by Engineer)

- .1 The Engineer shall confirm all oral instructions to the CONTRACTOR expeditiously in writing.
- .2 The Engineer shall have the authority to reject Work performed by the Contractor which does not meet the requirements of the Contract, and to order such Work repaired, removed, or replaced in accordance with Paragraph 5.11.

4.3 ACCESS TO AND OBSERVATION/INSPECTION OF THE WORK - (Plans and Specifications by Consultant). The Contractor shall provide sufficient, safe and proper facilities at all reasonable times for the observation/inspection of the Work by the duly authorized representative of the Owner. The Consultant and the Owner will make visits to the site at intervals appropriate to the various stages of construction to observe the progress of the executed Work and to determine if the Work is proceeding in accordance with the Contract Documents.

- .1 On the basis of such visits and on-site observations as an experienced and qualified design professional, Consultant will keep Owner informed of the progress of the Work and will guard Owner against defects and deficiencies in the Work which are the responsibility of the Contractor to prevent and/or cure.
- .2 No Approval of any phase of the construction Project by any of the Owner's representatives or observer/inspectors shall relieve the Contractor from full compliance with the Contract Documents regarding the ultimate Work product. Any additional cost, damages, or delays occasioned by patent or latent defects in the Work, and/or failure to meet the requirements of the Contract Documents, at any Project phase, shall be borne by the Contractor.

4.4 ACCESS TO AND OBSERVATION/INSPECTION OF THE WORK - (Plans and Specifications by Engineer) - The Contractor shall provide sufficient, safe and proper facilities at all reasonable times for the observation/inspection of the Work by the duly authorized representative of the Owner. The Engineer will make visits to the site at intervals appropriate to the various stages of construction to observe the progress of the executed Work and to determine if the Work is proceeding in accordance with the Contract Documents.

- .1 No Approval of any phase of the construction Project by any of the observer/inspectors shall relieve the Contractor from full compliance with the Contract Documents regarding the ultimate Work product. Any additional cost, damages, or delays occasioned by patent or latent defects in the Work, and/or failure to meet the requirements of the Contract Documents, at any Project phase, shall be borne by the Contractor.
- 4.5 ASSIGNMENTS AND SUBLETTING - Contractor shall not assign, transfer, convey, sublet or otherwise dispose of this Contract, or any portion thereof, or any right, title or interest in, to or under the same, without the previous written consent of the Owner. Contractor shall not assign by power of attorney or otherwise any of the monies or other considerations to become due and payable by the Owner under this Contract, without the previous written consent of the Owner. The Contractor shall notify the Owner, by written notification by certified mail to the Director of Finance - SAWS, that such assignment, transfer, conveyance or subletting, or other disposition of this contract or any portion thereof, or any right, title or interest, in, to or under the same, is contemplated. If the Contractor does not receive written approval of such contemplated action by the Owner, through the Director of Finance, within thirty days of receipt of such initial request by the Director, such contemplated assignment, transfer, conveyance or subletting, or other disposition of this contract or any portion thereof, or any right, title or interest in, to, or under the same, shall be deemed disapproved. In no event shall the Owner be liable in excess of the consideration of this Contract in the case of any such assignment, transfer, conveyance or subletting of the Work or performance which is subject hereof.
- .1 The Owner reserves the right to withhold any monthly payment hereafter provided for in the event of an assignment or subletting of a portion of the work without the previous consent and knowledge of the Owner and by reserving such right, the Owner shall not be deemed to have waived its right to declare a full breach of this Contract for Contractor's failure to comply with provisions hereof, such remedy being alternative only and exercisable at the option of the Owner.
- 4.6 SUBCONTRACTORS - The Contractor shall upon executing the Contract, notify the Owner in writing of the names of all proposed first tier subcontractors for the Work. This should include the SMWBs identified in the Good Faith Effort Plan
- .1 SUBCONTRACTUAL RELATIONS:

By an appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and the Consultant. Said agreement shall preserve and protect the rights of the Owner and the Consultant under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this paragraph and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract documents. Each Subcontractor shall similarly make copies of such Documents available to his Sub-subcontractor.
- 4.7 SEPARATE CONTRACTS
- .1 The Owner reserves the right to let other contracts in connection with this Work. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate his Work with their work.
 - .2 When separate contracts are awarded for different portions of the Project, "the Contractor" in the Contract Documents in each case shall be the Contractor who executes each separate Contract. This Contractor shall properly connect and coordinate his Work with the work of other contractors. If

any part of this Contractor's Work depends for proper execution or proper results on the work of any other separate contractor, this Contractor shall inspect and promptly report in writing to the Consultant and SAWS "COI " any discrepancies or defects he may find in the work of any separate contractor that render it unsuitable to achieve proper connection, execution and results. Failure of this Contractor to so inspect and report obvious discrepancies or defects shall constitute an acceptance of the other contractor's work as fit and proper to receive this Contractor's Work, except as to defects which may develop in the other separate contractor's work after the execution of this Contractor's work.

- .3 Should this Contractor negligently cause damage to the work or property of any separate contractor on the Project, this Contractor shall, upon due notice, endeavor to settle with such other contractor by agreement. A reciprocal clause shall be placed in the Contract Documents between the SAWS and the separate Contractor if involving other SAWS work. If such separate contractor sues the SAWS and/or it's agents on account of any damage alleged to have been so sustained, the SAWS and/or it's agents shall notify this Contractor who shall defend the SAWS's and/or it's agents' interests and Contractor's own interests in such proceedings and pay all attorney fees, and costs in connection therewith, and if any judgment against the SAWS results therefrom, this Contractor shall pay or satisfy that judgment.

4.8 CONTRACT TERMINATION

- .1 **TERMINATION BY CONTRACTOR** - If the Work is stopped by SAWS for a period of ninety (90) consecutive days (working or calendar days depending upon the type of Contract entered into) under an order of any court or other public authority having jurisdiction, or as a result of an act of a higher governmental authority, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor or a subcontractor or their agents or employees or any other persons performing any of the Work under a contract with the Contractor, then the Contractor may upon ten (10) additional days written notice to the SAWS and the Consultant, terminate the Contract and recover from the Owner payment for all Work previously executed and for any loss sustained upon any materials, equipment, tools, construction equipment and machinery, including reasonable profit and damages related to the Work stoppage. If the Work is recommenced during the ten (10) day notice period, the Contractor may not terminate the Contract.
- .2 **TERMINATION BY OWNER** - If the Contractor is adjudged as bankrupt, or if he makes a general assignment for the benefit of his creditors, without the consent of the SAWS or if a receiver is appointed on account of his insolvency, or if he persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction pertaining to the Work, or otherwise is guilty of a substantial violation of a provision of the Contract Documents warranting Owner default of Contractor, then the Owner may, without prejudice to any right or remedy and after giving the Contractor and his Surety, if any, ten (10) days written notice, terminate the employment of the Contractor and/or take possession of the site and of all materials, and may upon order of a court of competent jurisdiction take possession of equipment, tools, construction equipment and machinery thereon owned by the Contractor. Should the Surety fail to pursue completion of the Work with reasonable speed, the Owner may arrange for completion of the Work and deduct the cost thereof from the unpaid Contract sum remaining, including the cost of additional Owner administration and Consultant services made necessary by such default or neglect, in which event no further payment shall then be made by the Owner until all cost of completing the Work shall have been paid.

In the event that Owner shall be prevented from completing performance of its obligations under this Contract by an act of God or other occurrence whatsoever which is beyond the control of Owner, then Owner shall be excused from any further performance of its obligation and undertakings.

- .3 If the unpaid balance of the Contract sum exceeds the costs of finishing the Work, including compensation for the Consultant's additional services made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor or his surety shall pay the difference to the Owner. This obligation for payment shall survive the termination of the Contract.

4.9 CONTRACTOR BID SUSPENSION POLICY

- .1 INTRODUCTION - The San Antonio Water System (SAWS) through its Board of Trustees routinely contracts with private businesses to build, maintain and repair SAWS structures, vehicles, equipment, property and other assets. SAWS desires to receive quality service and performance at a fair price for each construction services, material, supply, and equipment contract awarded under Section V of SAWS Purchasing and Contracting Policy.

Occasionally, it appears to SAWS that the quality of service or performance required by the contract documents is not provided. Therefore SAWS requires a policy and a process to address nonperformance by contractors and, if necessary, to suspend certain contractors from further contract awards for a period of time.

The purpose of this policy is to establish a procedural framework to suspend a contractor from consideration for award of contracts with SAWS, based on a determination that the contractor has not met the performance standards as outlined in Section 4.9.4, Reasons for Contractor Suspension.

Staff will implement procedures consistent with this Section 4.9 to address service quality and performance issues. These procedures will include adequate safeguards, reviews and appeals to insure that contractors being considered for suspension are provided ample opportunity for discussion, communication, and corrective actions prior to being suspended.

The term "contractor" as used herein means a construction contractor, subcontractor, vendor, supplier, materialman and any other person or entity supplying labor and/or material to SAWS on a contract basis.

"SAWS Management Officials" means SAWS personnel who are at the Manager level or above and who are involved in the supervision, review or acceptance of services, work or materials provided by contractors under contract with SAWS.

- .2 CREATION OF CONTRACTING COMMITTEE - There shall be a standing Contracting Committee comprised of SAWS staff appointed by the President/Chief Executive Officer of SAWS. At least one Committee member will be a Vice President of SAWS and all other Committee members will be Managers or higher. The members of the Committee hearing the complaint will be SAWS Management Officials not directly involved with the contractor being considered for bid suspension. If a standing Contracting Committee member has been involved in the day-to-day administration or supervision of a contract with a contractor being reviewed by the Committee, such Committee member will not serve on the Committee with regard to a complaint or appeal affecting that contractor. The President/CEO may either appoint a substitute or the Committee may proceed with fewer members, but in no event will there be less than three members available at any Committee meeting to hear information presented. The members of the Committee hearing the complaint will be SAWS Management Officials not directly involved with the contractor being considered for bid suspension.
- .3 ADMINISTRATIVE PROCEDURES - Subject to applicable laws, regulations and this policy, SAWS' legal department will develop the Administrative and Operational Procedures for Contractor Bid Suspension Hearings and Appeals as outlined in "**Exhibit B**" at the rear of these General Conditions. The Contracting Committee may recommend changes to the Administrative and Operational Procedures. Changes to the Administrative and Operational Procedures must be approved by the President/CEO.
- .4 REASONS FOR CONTRACTOR SUSPENSION:

The Contracting Committee may suspend a contractor for any of the following reasons:

- a. Contractor's failure to satisfy contract obligations;
- b. Contractor's unsatisfactory safety performance;

- c. Contractor's failure to meet schedules or deadlines established in a contract with SAWS;
 - d. Contractor's failure to meet specifications or plan requirements;
 - e. Contractor's failure to staff a project as specified in contract documents;
 - f. Contractor's provision of inaccurate information in bid documents;
 - g. Contractor's failure to provide change order documentation specified in contract documents;
 - h. Contractor's failure to comply with warranty obligations;
 - i. Contractor's failure to satisfy all contract obligations to subcontractors, materialmen and laborers on SAWS projects as specified in contract documents;
 - j. Contractor's failure to correct valid customer or public complaints as provided for in the contract specifications, city ordinance, or applicable law.
 - k. Conviction of a principal, owner, manager or corporate officer of the contractor of a criminal offense;
 - l. Relevant documented information from other parties with whom a contractor has contracted which are negative in nature and reflective of any of the foregoing reasons.
- .5 COMPLAINT AND HEARING PROCEDURES - A SAWS Management Official may submit a complaint to the Chief Operating Officer recommending that a particular contractor be suspended from consideration for award of contracts with SAWS. The Chief Operating Officer will determine whether the complaint is in accordance with the Administrative and Operating Procedures. Upon such a determination, the Chief Operating Officer will convene the Contracting Committee in a Hearing on Contractor Bid Suspension. The standing Contracting Committee will consider all relevant information and decide whether the contractor will be suspended from bidding on SAWS contracts.
- .6 NOTICE OF SUSPENSION BY CONTRACT COMMITTEE - If the Contracting Committee decides to suspend the contractor, the Chief Operating Officer will send written notice as described in "VI. Contractor Bid Suspension Policy." This notice will be sent by certified mail, return receipt requested.
- .7 SUSPENSION PERIOD - If the contractor has not been previously suspended pursuant to this policy, the term of the suspension will be for one year from the date of issuance of the notice of suspension.
- If the contractor has been previously suspended pursuant to this policy, the term of the suspension will be for two years from the date of issuance of the notice of suspension.
- .8 APPEAL PROCESS - The contractor may request review of the decision by the President/Chief Executive Officer of SAWS by filing a written request for review with the President/CEO within 10 days of the date of the notice of the result of the appeal hearing. The suspension will stay in effect throughout the appeal process.
- .9 SEVERABILITY - Should any section, part, paragraph, sentence, phrase, clause or word of this policy, for any reason, be held illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted without the portion held to be unconstitutional or invalid or ineffective.
- .10 ADMINISTRATIVE LIABILITY - No officer, attorney, agent or employee of SAWS renders himself or herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted and performed in good faith in the discharge of his or her duties under this policy so long as such officer, attorney, agent or employee is acting within the scope of

his or her official capacity. Any suit brought against an officer, attorney, agent or employee of SAWS acting within his or her official capacity and scope, as a result of any act required or permitted and performed in good faith in the discharge of duties under this policy, will be defended by SAWS legal counsel until the final determination of the proceeding therein.

4.10 SUSPENSION OF WORK BY OWNER

- .1 The Owner may suspend said Work either partially or totally by his written order whenever in his opinion the interests of the SAWS requires the suspension of such Work. In the event that the Owner suspends Project Work, the Contractor hereby acknowledges and agrees that so long as the total suspension(s) is (are) for a period not to exceed ten (10) cumulative days (working or calendar days, depending upon the type of Contract entered into) accruing throughout the entire Contract Time, that the Contractor is not entitled to request a negotiated adjustment of the Contract Sum nor an extension of the Contract Time. Such right to suspend Project Work for periods not to exceed ten (10) cumulative days (working or calendar days depending upon the type of Contract entered into) accruing throughout the entire Contract Time without compensation to the Contractor, is expressly reserved by the SAWS.
- .2 Any total suspension of Project Work by the Owner that extends beyond ten (10) cumulative days (working or calendar days depending upon the type of Contract entered into) accrued throughout the entire Contract Time, shall entitle the Contractor to request either a negotiated adjustment of Contract Sum or an extension of Contract Time, or both, as directly attributable to such extended total suspension of Project Work.
- .3 Any partial suspension of the Work by the Owner that extends beyond the mutually determined point in time when the ten (10) cumulative days (working or calendar days depending upon the type of Contract entered into) accruing throughout the entire Contract Time, are effectively exceeded, shall entitle the Contractor to request either a negotiated adjustment of Contract Sum or an extension of Contract Time, or both, as directly attributable to such extended partial suspension of Project Work.
 - .3.1 In the event that the Owner partially suspends the Work in such a manner that some work is able to continue, the Contractor and SAWS hereby agree to discuss the impact of the partial suspensions upon dependent Contract Work, and to mutually determine when the ten (10) cumulative days (working or calendar days depending upon the type of Contract entered into) accruing throughout the entire Contract Time and expressly reserved by the SAWS without compensation to the Contractor, would effectively be exceeded.
 - .3.2 The SAWS's "COI" shall have the right to stop the Work whenever such stoppage may be necessary to insure proper execution of the Contract. Such temporary stoppage shall be followed by a Written Order as outlined in Paragraph 4.10.1
- .4 The Owner and the COI of SAWS shall at any time during the Contract Time have the right to suspend or stop the Work under Section 4.10.1 or Section 4.10.3.2 when the COI of SAWS or any other authorized representative of the Owner reasonably believes that there exists any dangerous condition, nuisance or safety risk to workers, the general public or property on the site or on property adjacent thereto. Notwithstanding the foregoing provisions of section 4.10, the Contractor shall not be entitled to any adjustment of the Contract Sum or extension of the Contract Time relating to any suspension of the Work by the Owner or the COI of SAWS for any safety reasons under this Section 4.10.4. and the Owner shall have no other liability of any kind to the Contractor with respect to any suspension of the Work for safety reasons under this Section 4.10.4.
- .5 The Owner and the COI of SAWS shall at any time during the Contract Time have the right to suspend or stop the Work under Section 4.10.1 or Section 4.10.3.2 when the COI of SAWS or any other authorized representative of the Owner reasonably believes that there exists on the site any environmental condition which could reasonably be expected to result in any liability, costs or expense to the Owner or the Contractor arising under any laws, statutes, ordinances, rules and regulations ("Laws") of any governmental, quasi-governmental or regulatory authority which relate to the transportation, storage, placement, handling, treatment, discharge, generation, production, removal, or disposal (collectively, "Treatment") of any waste, petroleum product (including without

limitation, gasoline and diesel fuel), waste products, or any other substance, the Treatment of which is regulated by any Laws (collectively, "Waste"). Notwithstanding the foregoing provisions of section 4.10, the Contractor shall not be entitled to any adjustment of the Contract Sum or extension of the Contract Time relating to any suspension of the Work by the Owner or the COI of SAWS for environmental reasons under this Section 4.10.5., and the Owner shall have no other liability of any kind to the Contractor with respect to any suspension of the Work for environmental reasons under this Section 4.10.5. At all times during the performance of the work by the Contractor under this Contract, the Contractor will comply with all Laws which relate to the Treatment of any Waste. The Contractor agrees to (a) give notice to the owner immediately upon Contractor's acquiring knowledge of the existence of any Waste on the site with a full description thereof, (b) promptly comply with any Laws applicable to the Contractor or the site requiring the removal, treatment or disposal of such Waste and provide Owner with satisfactory evidence with such compliance and (c) provide Owner within thirty (30) days after demand by Owner with a bond, letter of credit or similar financial assurance evidencing to the Owner's satisfaction that adequate funds are available to pay the costs of removing, treating and disposing of such waste.

4.11 PROTECTION OF PRIVATE PROPERTY - The SAWS has secured right-of-way and easements, as shown on the plans, to be occupied by the finished construction, with only such additional temporary construction easements as shown for use by the Contractor in carrying out his Work. The Contractor shall take proper measures to protect all property within all construction easements, and adjacent or adjoining property which might be injured by any process of construction; and, in case of any injury or damage, he shall restore at his own expense the damaged property to a condition equal to or better than that existing before such injury or damage was done, or he shall make good such injury or damage in a manner acceptable to the private or public Owner.

- .1 The Contractor shall correct customer complaints for such items as (but not limited to) driveway access, mailboxes, privacy fences, public safety hazards, public nuisances, water and sewer services as specified by the SAWS "COI."
- .2 The Contractor shall not, except upon procuring written consent from proper private parties, enter or occupy with men, tools, materials, or equipment any privately owned land except for those on easements provided herein by SAWS.

ARTICLE V. CONTRACT RESPONSIBILITIES

5.1 OWNER-CONTRACTOR OBLIGATIONS - The Owner and the Contractor each binds himself, his partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or sublet it as a whole without the prior written consent of the Owner, nor shall the Contractor assign any monies due or to become due to him hereunder, without the prior written consent of the Owner, and in the manner established in Section 4.5 herein.

5.2 OWNER'S RESPONSIBILITY - Projects contracted through other outside entities and containing utility work by SAWS shall be managed by the other entity with support by SAWS personnel. Contractor shall report directly to the other entity. Utility projects contracted through SAWS, which contain secondary street work, shall be managed by SAWS with support by other entity personnel. Contractor shall report directly to SAWS.

- .1 The design of this Project was performed by a professionally licensed engineer who is an authorized representative of the Owner, who will exercise the authority and functions of the Owner as the Project Consultant in the following respects:
 - a. Staking the Work for construction and furnishing all necessary accurate cut sheets promptly.
 - b. Checking of shop drawings furnished by the Contractor in compliance with Paragraph 5.13 herein.
 - c. Consultation and advice during construction and rendering those decisions requiring interpretation of the Plans and Specifications.

- d. Periodic visits to the Project.
 - e. Assist in the final inspection.
 - f. Assist in the preparation of the monthly and final quantity and pay estimates.
 - g. Provide the Owner with a final set of "Record Drawings" on reproducible mylar prepared from monthly Contractor's submittal of marked Plans in accordance with Paragraph 3.4.1.
 - h. In the event there is a professional services contract, the terms of such contract shall be cumulative of the above.
- .2 Unless otherwise provided or ordered, all resident observation and inspection on all SAWS' contracted projects will be performed by the SAWS's Construction Observer/Inspector "COI", who will exercise the authority and functions of the Owner in the following respects:
- a. Review laboratory, mill and shop tests of materials and equipment for general compliance with the Plans and Specifications.
 - b. Observation/inspection of the authorized construction, administration for the Owner, and review of all Work performed for general compliance with the Plans and Specifications.
 - c. Review monthly and final quantity and pay estimates.
 - d. Conduct final observation/inspection.
 - e. Determine acceptability of the finally completed Work.
- .3 Sampling and testing of materials, laboratory inspection of materials and processes shall be performed at the expense of the SAWS in a laboratory maintained by SAWS of San Antonio or a commercial testing laboratory designated by the Owner. The Contractor shall furnish reasonable assistance and material required of him by the SAWS's "COI" in obtaining Samples at the expense of the Contractor.
- .1 All Work on integral components of the Project, (e.g. such as precasting members, steel fabrications, large pump testing, etc.), performed outside of Bexar County shall be regulated as follows: Sampling and testing of materials, laboratory inspection of materials and processes shall be performed at the expense of the Contractor or Supplier by an independent commercial laboratory approved by the Vice President of Engineering or his duly authorized representative. All test reports and shop drawings shall be submitted to the SAWS and shall be signed and sealed by a Registered Professional Engineer. All structural members shall be marked or stamped individually with an identifying number for the purpose of cross-referencing all reports.

5.3 CONTRACTOR'S RESPONSIBILITIES

- .1 The Contractor shall supervise and direct the Work using the best skill and attention. The contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures, and for the implementation of safety precautions and for coordinating all portions of the Work under this Contract.
- .2 In connection with the SAWS's visual observation/inspection of the Work or materials testing contemplated herein, it is clearly understood that the Contractor is responsible for performing quality control inspection and testing services to assure Project compliance with Contract Documents. The Contractor shall give the SAWS's "COI" reasonable advanced notice of the readiness of any Work for observation/inspection, and when practicable, twenty-four (24) hours notice. If any underground Work is performed without the proper prior notification to the "COI", it shall be uncovered for observation/inspection and properly restored at the Contractor's expense.
- .3 If the Contractor, in the course of the Work, finds any discrepancies between the Plans and the physical conditions of the locality, or any errors or omissions in the Plans or the layout as given by

survey points and instructions, he shall immediately inform the SAWS's "COI" and Consultant, in writing, and the Consultant and/or Engineer shall promptly investigate the same. Any Work impacted by the discrepancy performed by Contractor after such discovery, until authorized, will be done at the Contractor's risk and/or expense.

- 4 Contractor's Risk - Contractor shall be responsible for the complete, timely, performance of the Work under this Contract and compliance with the Contract Documents. Contractor shall be responsible for the safe storage and inventory control of all materials on the project site and/or within off-site storage facilities either owned or leased by the Contractor, if any. Contractor shall protect materials and Work from all theft, loss, vandalism, or damage from any cause whatsoever until final Project completion by Contractor and acceptance by Owner; and shall deliver said Work and improvements to the SAWS in a completed and acceptable condition in accordance with the Contract Documents.
 - .5 It is the intention of the SAWS to be sensitive to the needs and concerns of the citizenry. It is the Contractor's responsibility to adhere to this policy to the best of his ability. The Contractor, subcontractor and his employees should, whenever possible, address citizen inquiries about the project, provide names and numbers of SAWS personnel, relay citizen complaints, and provide continuous access to the citizen's property.
- 5.4 SUPERINTENDENT - The Contractor shall keep on-site for this Project during its progress a competent Superintendent or a designee and any necessary assistants, all satisfactory to the Owner. Any Superintendent designee shall be identified in writing to the Vice President of Engineering or his duly authorized representative, promptly after Owner issued written Authorization to Proceed. The Superintendent or appointed designee shall represent the Contractor and all directions given to either of them shall be binding. Other Oral directions from the SAWS representatives involving critical situations or Work elements shall be immediately confirmed in writing by Owner to the Contractor. Owner shall confirm other oral directions on written request in each case. The Contractor shall give sufficient supervision to the Work, using the best skill and attention.
- 5.5 INCIDENTAL WORK, CONNECTIONS AND PASSAGEWAYS - The Contractor shall perform all incidental Work necessary to complete this Contract, including, but not by way of limitation, the following: Shall make and provide all suitable reconnections with existing improvements as are necessarily incidental to the proper completion of the Project; shall provide passageways or leave open such thoroughfares in the Work area as may be reasonably required by SAWS and shall protect and guard same at contractor's own risk, and shall continuously maintain the Work area in a clean, safe and workmanlike manner.
- 5.6 CONDITIONS AT SITE
- .1 Contractor declares that prior to the submission of the Bid Proposal on this Contract, the contractor has thoroughly examined the location(s) of the Work to be performed, has become familiar with typical local geophysical conditions at or near this Project, and has read and has thoroughly understood the "Contract Documents" and any other document made available prior to the bid opening, as they may relate to the physical conditions prevalent or likely to be encountered in the performance of the Work at such location(s). Contractor, by the performance of the above, hereby generally acknowledges that such "Contract Documents" are not obviously deficient and will enable the contractor to accomplish the proper performance of the Work at the Project site.
 - .2 The Contractor shall promptly, and before such discovered conditions and/or structures are disturbed, notify the Owner in writing of (1) subsurface or latent physical and/or structural conditions at the site differing materially from those indicated in the Plans, Specifications, and other Contract Documents or (2) newly discovered, unknown physical conditions at the site of an unusual nature differing materially from those geophysical conditions typically encountered in the type Work being performed and generally being recognized as not indigenous to the Bexar County, Texas environs. The Owner, or designated representative, shall promptly investigate the reported physical and/or structural conditions, and shall determine whether or not the physical and/or structural conditions do materially so differ and thereby cause an increase or decrease in the Contractor's cost of, and/or the time required for performance of any part of the Work under this Contract. In the event that the Owner reasonably determines that the physical and/ or structural conditions do materially so differ, a negotiated, equitable, adjustment shall be made to either the

Contract Time or Contract Sum, or both, and a Contract Change Order shall be promptly issued in writing accordingly.

.2.1 No claim of the Contractor under this clause shall be allowed unless the Contractor has given the written notice called for above, prior to disturbing the discovered conditions and/or structures.

.2.2 No claim by the Contractor for an equitable adjustment hereunder shall be allowed if claimed by the Contractor after final payment as defined in Section 7.4 herein has been made by the SAWS under the terms of this Contract.

5.7 CONTRACTOR'S INSURANCE REQUIREMENTS

.1 Commencing on the date of this Contract, the CONTRACTOR shall, at contractor's expense, purchase, maintain and keep in force such insurance as will protect the contractor, SAWS the City of San Antonio and SAWS employees and agents from claims which may arise out of or result from operations under this Contract, whether such operations are performed individually, by any subcontractor, supplier or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable, including, without limitation, the following:

.1.1 Workers' Compensation (WC) insurance that will protect the CONTRACTOR, SAWS and the City of San Antonio from claims under statutory Workers' Compensation laws, disability laws or such other employee benefit laws and that will fulfill the requirements of the jurisdiction in which the work is to be performed.

This insurance will be endorsed to provide:

- Coverage for multiple jurisdictions and other such indicated coverage (U.W. Longshoremen and Harbor Workers' Admiralty, etc.) as may be applicable; and
- Waiver of Subrogation in favor of SAWS and the City of San Antonio with respect to both this insurance coverage and the Employers' Liability (EL) insurance (as specified immediately below in section .1.2).

.1.2 Employers' Liability (EL) insurance that will protect the CONTRACTOR, SAWS and the City of San Antonio for damages because of bodily injury, sickness, disease of vendor's employees apart from that imposed by Workers' Compensation laws. This employer' liability insurance shall have a minimum limit of liability of not less than:

\$ 1,000,000.00	Bodily Injury by Accident
\$ 1,000,000.00	Bodily Injury by Disease - Each Employee
\$ 1,000,000.00	Bodily Injury by Disease - Policy Limit

.1.3 Commercial General Liability (CGL) insurance that will protect the Contractor, SAWS and the City of San Antonio from claims for damages because of bodily injury, personal injury, sickness or death and insurance that will protect the CONTRACTOR, SAWS and the City of San Antonio from claims for damages to or destruction of tangible property of others, including loss of use thereof.

This coverage shall:

- Cover independent contractors;
- Not include any exclusions relating to blasting, explosion, collapse of buildings or damage to underground property where applicable;
- Afford coverage for Products Liability and/or Completed Operations and **Contractual** Liability.

The minimum limits of liability for this coverage shall be:

\$2,000,000.00	General Aggregate
\$1,000,000.00	Occurrence Limit

\$1,000,000.00	Products/Completed Operations Aggregate
\$1,000,000.00	Personal and Advertising Injury
\$ 50,000.00	Fire Legal Liability
\$1,000,000.00	Contractual Liability

This insurance shall be endorsed:

- Naming SAWS, the City of San Antonio and the Consultant as an Additional Insured; and
 - To provide a Waiver of Subrogation in favor of SAWS and the City of San Antonio.
- .1.4 Comprehensive Automobile Liability (AL) insurance that will protect the CONTRACTOR, SAWS and the City of San Antonio from claims for damages arising out of the maintenance, operation, or use of any owner, non-owned or hired vehicles. Minimum limits of liability for bodily injury and property damage combined shall be not less than \$1,000,000.00 each occurrence.

This insurance shall be endorsed:

- Naming SAWS, the City of San Antonio and the Consultant as an Additional Insured; and
 - To provide a Waiver of Subrogation in favor of SAWS and the City of San Antonio.
- .1.5 An Umbrella Liability (UL) insurance in the amount of \$2,000,000.00. This policy shall be of an "Occurrence" type and the limit of liability shall be concurrent with and in excess of the EL, and AL insurance coverage described in paragraphs 5.7.1.2, 5.7.1.3, and 5.7.1.4 of this contract. Specifically state which coverage form is being used for the Excess/Umbrella Liability insurance – please include whether the coverage form is Excess **or** Umbrella in the Description of Operations on the Certificate of Insurance.
- .1.6 Owner and Contractor Protective Liability Insurance policy which insures SAWS and the City of San Antonio and their agents and employees with the same coverage specified in paragraph .1.3 above **unless** the CGL policy specified in paragraph .1.3 above includes the Endorsement CG2503 - per project general aggregate limit applies.
- .1.7 **Contractor’s Pollution Liability Insurance** with limits of \$2,000,000 per occurrence/\$2,000,000 in the aggregate. The policy shall provide “claims made” coverage for all claims, liabilities, damages, costs, fees, and expenses of any kind or character arising out of any Pollution Condition(s) (as defined below) that is in any way related to CONTRACTOR’s operations, actions or inactions, and completed operations associated with any work performed by Contractor, its subcontractors, or any of their respective employees, agents, representatives, or officers under this Contract. Coverage must be maintained for a minimum of twenty-four (24) months after the date that a Certificate of Completion is issued, or if the Contract is terminated for any reason, for a minimum of twenty-four (24) months following the date of termination. The policy retroactive date will be no later than the Contract date or the project commencement date, whichever is earlier. Specifically state which coverage form is being used for this Contractor’s Pollution Liability insurance – please include whether the coverage form is on an Occurrence Basis or Claims Made form in the Description of Operations on the Certificate of Insurance which accompanies your bid/response. If the coverage form is Claims Made also include the “Retro-date” of the policy coverage.

Pollution Condition(s) means the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to, smoke, sewage, vapors, soot, fumes, acids, alkalis, toxic chemicals, medical waste and waste materials into or upon land, the atmosphere or any watercourse or body of water, including groundwater, provided such conditions are not naturally present in the environment in the amounts or concentrations discovered.

The **Contractor's Pollution Liability Insurance** will pay on behalf of the CONTRACTOR, SAWS and the City of San Antonio all claims, demands, damages, liabilities, costs, fees, and expenses of any kind or character for bodily injury or death, property damage, environmental or natural resource damage, and any fines, fees, assessments or penalties of any kind assessed by any governmental department, agency or commission that result from or are related to a Pollution Condition(s). Coverage will include all subcontractors hired by CONTRACTOR to perform any work on the Project or under this Contract.

The policy shall also include the following provisions:

- Coverage for bodily injury to include physical injury, sickness, disease, mental anguish and emotional distress sustained by any person, including death;
- All costs that are related to or that arise out of or from the investigation or adjustment of any claim or in connection with any court, arbitration, mediation, state administrative hearing, or other proceeding of any kind, including attorneys fees, expert witness fees, costs, charges and expenses of any kind or character, that arise out of or that are related to a Pollution Condition(s);
- Coverage shall be Primary and in addition to any other valid and collectible insurance carried by SAWS and the City of San Antonio as respects to this Contract;
- Coverage for Natural Resource Damages and any fines, fees penalties or assessments by any governmental agency, commission or department related to any Pollution Condition(s);
- Insured versus Insured exclusion, if found in the policy, shall not apply to a claim by an Insured who qualifies as a Client of the Named Insured under the policy;
- If Non-Owned Disposal sites are used for disposal of wastes, these sites shall be specifically included under the Contractors Pollution Liability Insurance policy; and
- Coverage for punitive, exemplary, and multiple damages.

Automobile Liability policy of CONTRACTOR *hauling excavated spoil* shall either be endorsed to provide coverage under the TE9948 endorsement or the Contractor's Pollution Liability Insurance policy shall be endorsed to provide transportation coverage beyond the boundaries of the job site.

- .1.8 In the event, the project contracted for herein requires the building of structures or facilities used for storage, housing equipment or the occupancy of personnel, the Contractor shall provide Physical Damage Insurance on Builder's Risk Form which insures SAWS and the City of San Antonio for damages to all Property Purchased for, or Assigned to, the Project commencing on the start date through completion. Policy limits shall be in an amount equal to the total construction cost contracted herewith. The policy form shall be an All Risk Builders' Risk form and shall include the flood and earthquake endorsements.
- .2 CONTRACTOR shall **require** all Subcontractor's to carry insurance appropriate to their scope of Work.
- .3 The insurance that is required under this Section 5.7 shall be written so that SAWS and the City of San Antonio will be notified in writing in the event of cancellation, restrictive endorsement or non-renewal at least thirty (30) days prior to such action.
- .4 The CONTRACTOR shall furnish a completed Certificate of Insurance, which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon.
- .5 Certificates of Insurance on the form attached to this Contract shall be filed with the SAWS prior to the execution of this Contract. The SAWS Project number(s) **shall be included** in the Description of Operations section located in the bottom half of the standard ACORD Certificate form.

Certificates shall be mailed directly to:

San Antonio Water System
Attention: Contract Administration
P.O. Box 2449
San Antonio, TX 78298-2449

Contractor shall be responsible for obtaining **Certificates of Insurance** from the first tier Sub-consultant, and upon request furnish copies to SAWS

- .6 Separate **Certificates of Insurance** shall be filed with the City of San Antonio 10 days **prior to** the SAWS Board of Trustee's award of the Contract. The SAWS Project number(s) **shall be included** in the Description of Operations section located in the bottom half of the standard ACORD Certificate form.

Certificates shall be mailed to the City of San Antonio directly to:

City of San Antonio
Attention: Risk Management
P.O. Box 39966
San Antonio, TX 78283-3966

A copy of the certificate of insurance provided to the City of San Antonio shall be provided to SAWS at the same time.

- .7 CONTRACTOR is responsible for all deductibles under all of the insurance policies required by this Section 5.7.
- .8 The stated limits of insurance required by this Section 5.7 are MINIMUM ONLY and it shall be the CONTRACTOR'S responsibility to determine what limits are adequate and the length of time the coverage shall be maintained. The minimum limits may be basic policy limits or any combination of basic limits and umbrella limits.

The SAWS acceptance of Certificates of Insurance that in any respect do not comply with the requirements of this Section 5.7 does not release the CONTRACTOR from compliance herewith.

- .9 CONTRACTOR shall and will cause Subcontractors to carry any and all insurance required by law, including, but not limited to, Automobile Insurance and Workers' Compensation Insurance.

CONTRACTOR shall and will cause Subcontractors to issue a waiver of subrogation in favor the SAWS and the City of San Antonio with respect to coverage described in paragraphs 5.7.1.1 and 5.7.1.2. CONTRACTOR shall and will cause Subcontractors to name SAWS and the City of San Antonio as an additional insured with respect to coverage described in paragraph 5.7.1.4.

- .10 CONTRACTOR agrees that all insurance policies required by these requirements shall be with insurance companies, firms or entities that are A.M. Best Rated A- ("A" minus) or better and a Financial Size Category rating of a "VII" or better. All insurance policies shall be of an "Occurrence" type except the Contractor's Pollution Liability Insurance coverage.

5.8 SURVIVAL

Any and all representations, conditions and warranties made by CONTRACTOR under this Contract including, without limitation, the provisions of Sections 5.7.1.3, 5.7.1.4 and 5.7.1.5 of this Contract are of the essence of this Contract and shall survive the execution and delivery of it, and all statements contained in any document required by the SAWS whether delivered at the time of the execution, or at a later date, shall constitute representations and warranties hereunder.

5.9 MATERIALS & WORKMANSHIP

- .1 MATERIALS - Unless otherwise specified, all materials incorporated in the permanent Work shall be new, and both workmanship and materials shall be of good quality in accordance with Specifications. The Contractor shall, if required, furnish satisfactory evidence as to the supply or manufacture, and quality of materials supplied. All materials that come in direct or indirect contact with potable water must conform to ANSI/NSF Standard 60 for direct additives and ANSI/NSF 61 for indirect additives OR be in full compliance with all current regulations of the TNRCC pertaining to conditional approval of the material.
 - .2 USE OF MATERIALS WITHIN THE RIGHT-OF-WAY - The Contractor, with the approval of the SAWS's "COI" and Consultant and/or Engineer, may use in the Work any suitable stone, gravel, or sand found in the excavation that otherwise meets or exceeds Contract Specifications. The Contractor shall not over excavate any material from within the right-of-way, which is not within the excavation limits, if any, as may be indicated by the lines and grades, without written authorization from the Owner.
 - .3 SALVAGEABLE MATERIAL - Salvageable material as determined by the Specifications or the SAWS's "COI" shall remain the property of the SAWS and shall be relocated and stored at the job site by Contractor as directed by the SAWS's "COI" unless stated elsewhere in the Specifications.
 - .4 DISPOSAL OF NON-HAZARDOUS WASTE MATERIAL/SUBSTANCES - The Contractor shall be responsible for disposing of all non-hazardous material as the term is defined in Article I herein including old concrete or any other non-hazardous material which is required to be removed from the project. Such material shall not be deposited in any sanitary sewer, creek, river, water course or municipal separate, storm sewer system, (MS4) as the term is defined herein.
 - .5 DISPOSAL OF HAZARDOUS MATERIAL/SUBSTANCES - The Contractor shall be responsible for disposing of all hazardous materials/substances, as that term is defined in Article I herein in accordance with all applicable Federal, State and local laws, and in accordance with any specific instructions set out in the plans and specification herein.
 - .6 RECLAMATION OF LOW AREAS - The contractor may undertake the reclamation of low areas with the prior approval of the Owner.
 - .7 BLOCKAGE OF THE MS4 - The Contractor shall comply with the provisions of the appropriate City Ordinances. In no event shall the Contractor block any portion of the MS4 with fill. Should any blockage occur the Contractor shall remove such fill, at contractor's expense, as directed by the SAWS "COI".
- 5.10 TESTING - The Owner or the Consultant may require special inspection, testing or approval of material or Work for determining compliance with the requirements of the Contract Documents. Upon Owner-authorized direction of the Consultant, the Contractor shall promptly arrange for such special testing, inspection or approval procedure. Should the material or Work fail to comply with the requirements of the Contract Documents, the Contractor shall bear all costs of the special testing, inspection or approval as well as the cost of replacement of any unsatisfactory material or Work as provided by Paragraph 5.11, otherwise, should the Work prove not defective, the Owner shall bear such costs and an appropriate Change Order shall be issued. The costs of routine testing required by the Owner shall be borne by the Owner, as provided by Paragraph 5.2.3.
- 5.11 REMOVAL OF DEFECTIVE WORK - If any materials furnished under this Contract fails to perform in the manner such material is expected to perform in accordance with ordinary usage, the Contractor shall proceed to remove from the Project at his sole expense all such materials, whether worked or unworked, and to remove all portions of the condemned Work.
- 5.12 EQUAL MATERIALS - It is not the intent of these Specifications to unreasonably limit materials to the product of any particular manufacturer or supplier. Where definite materials, equipment and/or fixtures have been specified by name, manufacturer or catalog number, it has been done so as to set a definite standard and/or a reference for comparison as to quality, application, physical conformity, and other characteristics. It is not the intention to discriminate against or prevent any dealer, jobber or manufacturer from furnishing materials, equipment, and/or fixtures that meet or exceed the characteristics of the specified items. Contractor's substitution of materials, equipment and/or fixtures shall not be made without prior written approval from the Consultant, and the Owner.

5.13 SHOP DRAWINGS AND SAMPLES

- .1 Contractor shall reasonably check and verify all field measurements and after complying with applicable procedures specified in the Contract Documents, Contractor shall submit (in accordance with the Contractor's schedule of Shop Drawing submissions submitted to the Owner and Consultant for information purposes), to Consultant for review and approval or for other appropriate action, five (5) copies, of all Shop Drawings bearing a stamp or specific written indication that Contractor has satisfied the Contractor's responsibilities under the Contract Documents with respect to his review of his submission. All Contractor submissions will be clearly identified as required by the Consultant. The Contractor data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable Consultant to review the information.
- .2 Contractor shall also promptly submit to Consultant for review and approval any Samples required by the Contract Documents. All Samples will be accompanied by a specific written indication that Contractor has satisfied Contractor's responsibilities under the Contract Documents with respect to the review of the submission, identity of materials, suppliers, and other pertinent data such as catalog numbers, and use for which intended.
 - .2.1 Before Contractor's submission of each Shop Drawing or sample, Contractor shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.
 - .2.2 At the time of each Contractor submission, Contractor shall give Consultant specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific Contractor notation to be made on each Shop Drawing submitted to Consultant for review, approval, or other appropriate action highlighting each such variation.
 - .2.3 Shop drawings for alternate designs not shown in the plans shall be reviewed and approved by the Engineer and shall not be implemented without an approved Change Order.
- .3 Consultant will review, approve, or take other appropriate action with the Shop Drawings and samples with reasonable promptness so as to cause no delay in the Work. Consultant's review, approval, or other appropriate action regarding Contractor's submissions will be only to check conformity with the design concept of the Project and for compliance with the information contained in the Contract Documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate component item will not indicate approval of the assembly into which the item is functionally integrated. Contractor shall make corrections required by Consultant, and shall return the required number of corrected copies of Shop Drawings to the Contractor. Contractor may be required to resubmit as required revised Shop Drawings or Samples for further review and approval. Contractor shall direct specific attention in writing to any new revisions not specified by Contractor on previous Contractor submissions.
- .4 Consultant's review, approval, or other appropriate action regarding Shop Drawings or Samples shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has in writing called Consultant's attention to each such variation at the time of submission as required by Paragraph 5.13.2.2 and Consultant has given written approval of each such variation by a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample approval; nor will any approval by Consultant relieve Contractor from responsibility for Contractor errors or omissions in the Shop Drawing submissions or from Contractor's responsibility to comply with the provisions of Paragraph 5.13.2.1

- .5 Where Consultant requires by written request an approved Contractor Shop Drawing or Sample, any related Work performed by Contractor prior to Consultant's review and approval of the affected submission will be at the risk of Contractor.

5.14 PROGRESS SCHEDULE

- .1 The Contractor shall provide a Construction Progress Schedule to the Owner within ten (10) calendar days after receipt of the Authorization to Proceed. The schedule shall show the order in which the Contractor proposes to carry out the Work in accordance with the final approved phasing plan, and the anticipated start and completion dates of each phase of the Work. The schedule shall be in the form of a time scaled Work progress chart, to indicate the percentage of Work scheduled for completion at various critical milestones.
- .2 If the Contractor's operations are materially affected by changes in the Plans or in the amount of Work, or if he has failed to comply with the anticipated progress, the Contractor shall submit a revised schedule reflecting the change in progress, within ten (10) calendar days of the occurrence of such event. The schedule may also be revised by the Contractor in response to the reasonable request of the Owner.
- .3 The Construction Progress Schedule will be used as the basis for establishing the critical items of Work and analyzing the Contract Time in relation to Work progress.
- .4 The Contractor shall submit in conjunction with his monthly request for payment, a copy of the current adjusted Construction Progress Schedule showing the progress of the Work to date. If it is determined by Owner that the Contractor is not maintaining his anticipated progress, then the Owner may withhold approval of the monthly progress payment as outlined in Paragraph 7.3.

5.15 SEQUENCE OF WORK

- .1 PHASES OF CONSTRUCTION - The Contractor shall perform the Work as outlined in the "Special Conditions" or as shown on the Plans. The Contractor may submit to Owner a revised Contractor Phasing Plan prior to start of construction for review by the Owner. If the Owner determines that the revised Contractor's Phasing Plan is not acceptable as being in the best interest of the Owner, then the Contractor shall proceed with the Work in accordance with the Owner's Phasing Plan at no additional cost to the Owner.
- .2 DETOUR ROUTES - A detour route for through traffic as determined by the SAWS is included in the Plans where the proposed construction is located within the limits of a street designated as "Collector", "Secondary" or Primary". The Contractor shall not begin construction of the Project or close any streets until adequate barricades and detour signs have been provided, erected and maintained in accordance with the detour route and details shown on the Plans. The Contractor shall notify the SAWS's "COI" forty-eight (48) hours in advance of closing any street to through traffic. Local traffic shall be permitted the use of streets under construction where feasible.

5.16 CONSTRUCTION STAKES

- .1 The Contractor will be supplied with one set of construction stakes delineating the Project as to line and grade, appropriate benchmark information and reasonably accurate cut sheets. Detailed transfers of elevation, line and grades to structures and other features of the Work shall be the responsibility of the Contractor.
- .2 WATER MAINS - Construction stakes will consist of a single line of stakes spaced at 100 foot intervals, and at special features with guard stakes showing the stationing, and offset and the cut to top of pipe (where applicable).
- .3 STREETS - Construction stakes will consist of a single line of offset hubs on both sides of the street spaced at 50-foot common intervals, at PC and PT of horizontal and vertical curves, at each end of curb returns and at special features with guard stakes showing the stationing. Hubs will offset four (4) feet from the face of curb. No stakes will be set for control of grades between curbs.

- .4 SANITARY SEWERS - Construction stakes will consist of a single line of offset hubs spaced at 100-foot common intervals, at manhole locations and at other special features with guard stakes showing the stationing, the offset, and the cut to flow line grade.
- .5 LASER BEAMS - The use of Laser Beams for vertical control of water mains and sanitary sewers shall be required and the Contractor shall make available to the SAWS's "COI" a level and rod of sufficient sensitivity to accurately determine differences in elevation between points 300 feet apart with one instrument set-up.
- .6 CONTRACTOR'S RESPONSIBILITY - When the construction stakes have been set, the preservation of such stakes as to position, elevation and marking shall become the responsibility of the Contractor. Should any of the original stakes be destroyed by the Contractor's operations, or by any other non-Owner related third parties or means whatsoever, the replacement of such stakes by Consultant and/or Engineer will be at the expense of the Contractor. Prompt payment by Contractor to Consultant for replacement staking is expected and Owner may withhold periodic or final payments to Contractor to secure said payment.

5.17 PUBLIC UTILITIES

.1 Owner's Responsibility:

The Owner shall send a set of plans to utility (ies) listed on the plans. The Owner shall request that the utility (ies) review such plans and specifications to determine and/or verify the location of any utilities within the project site. The utility shall further be requested to communicate in writing the results of such review to the Contractor.

.2 Contractor's Responsibility:

- a. The Contractor is hereby required to become familiar with all the existing utility structures, lines and mains that are known to exist and may be encountered within and/or adjacent to the limits of the work covered by the Contract. While the existence and location of underground utilities indicated on the Plans are taken from the most current utility records available to the Consultant and/or Engineer, the Contractor understands and acknowledges that the notation of such underground utilities on the Plans does not constitute a guarantee by the Owner or Consultant. Contractor further understands and acknowledges that Owner and Consultant are under no obligation to indicate the location of private service lines on the Plans.
- b. The Contractor shall go to the Project site and locate and verify any utilities indicated on the Plans prior to the Commencement of Work. The Contractor shall further investigate the possible location of any private service lines prior to the Commencement of Work. To facilitate this obligation on the part of Contractor, the Contractor shall communicate with the utilities listed on the plans, call for locations and subsequently visit the project site with a qualified utility representative of each utility listed on the plans, prior to the Commencement of Work. The information resulting from such on-site investigations shall govern over the information notated on the Plans, when and if a conflict between such information arises. In the event such investigations on the part of Contractor result in a utility location adjustment, Contractor shall not commence work until the completion of such adjustment has been completed.
- c. The Contractor acknowledges and agrees that maintaining continuity of utility service to utility customers is critical.
- d. The Contractor shall be responsible for protecting the integrity of all utilities (public or private) either shown on the Plans or discovered during the Contractor investigations required in paragraph 5.17.2(b) herein. Such method of protection shall first be reviewed and approved by the affected utility.
- e. The Contractor shall be responsible for any damages to any utilities (public or private) either shown on the Plans or discovered during Contractor investigations acquired in paragraph 5.17.2(b) herein. Any existing utilities shown on the plans or discovered during Contractor

investigations set out herein which cannot be relocated shall be protected by the Contractor as part of the original Bid Proposal Price submitted by Contractor. The Contractor shall pay for temporary relocation of utilities for the Contractor's convenience.

- f. Contractor shall be responsible for damage to utilities not shown on the Plans and not discovered during Contractor's investigations required in paragraph 5.17.2(b) herein when the existence of such a utility or the suspected existence of such a utility should have been anticipated and investigated by the Contractor, based upon certain physical manifestations observed during the course of construction or other tangible evidence which constitutes common knowledge in the construction industry of the probable existence of a utility. A Contractor shall not be responsible for damages to utilities not shown on the Plans and not discovered during Contractor's investigation required herein when in accordance with the common knowledge in the construction industry, the existence of such utility could not reasonably be anticipated.
- .3 Temporary clearance of high voltage (600 volts and above) and overhead electrical lines is required prior to the operation of equipment within 10 feet of such lines (Texas Health and Safety Code, sections 752.003 and 752.006). The Contractor shall bear the expense to obtain the necessary temporary clearance from the high voltage line operator or utility company. Temporary clearance shall be a temporary barrier separating and preventing contact of material, equipment, persons, communications with high voltage electrical lines, or temporary de-energization and grounding or temporary relocation, or raising of the lines.
 - .4 In the case of sewer, water, gas, electric, telephone, cablevision cable, or any other utility shown on the Plans and/or discovered during the Contractor's investigations required in paragraph 5.17.2(b) herein, the Contractor will use care in excavating over, under and around such lines and will provide all necessary temporary bridging during construction so as to maintain continuous service of the utility line. The Contractor shall backfill around the main and complete his construction operations in such a manner as to leave the utility line firmly and securely bedded in its original position without damage to any protective coatings.
 - .5 In instances where gas or water mains are exposed during construction, the utility company owning or operating the service shall be given at least twenty-four (24) hours notice by the Contractor prior to backfilling in order that the protective coating on the mains may be inspected and/or repaired by utility company.
 - .6 BRACING AND SUPPORTING - In areas where utilities are known to be near the project site, and could be damaged by soil movement, slips or cave-ins, the Contractor shall take all precautions necessary to protect such utilities from damage and shall pay for the repair of any such damages caused by Contractor failure to properly protect the utility.
- 5.18 SUBSURFACE CONDITIONS - Reports of explorations and tests of subsurface conditions at the construction site, where applicable, are available for review. The SAWS in order to generally forecast soil conditions at various depths to assist the Consultant in designing the Project procured these reports. The logs and descriptive data are NOT PART OF THE CONTRACT DOCUMENTS but are made available for the general information of bidders and neither the SAWS nor the Consultant assumes any obligation or responsibility, either specific or implied, for the accuracy or completeness of any information contained therein. Sub-surface conditions along and across the Project site may vary significantly from those shown on the test reports.
- 5.19 WORKING HOURS - No Work, with the exception of such items as curing of concrete, maintenance of barricades, etc., will be allowed by the Owner between the hours of 6:00 p.m. and 7:00 a.m. of the following day, unless directed by Owner or requested in writing by Contractor and approved by the Owner.
- 5.20 USE OF CITY STREETS RIGHT OF WAY - The Contractor shall confine the movements of all steel tracked equipment to the limits of the Project and any such equipment will not be allowed to use City streets unless being transported on pneumatic tired vehicles. Any damage to existing City streets caused by the Contractor's equipment shall be repaired by Contractor at his own expense upon direction, and in the manner prescribed by City's specifications and the SAWS's "COI".

- 5.21 DAMAGES TO CITY STREETS caused by the Contractor, within the limits of the project but not within the current phase being constructed, shall be repaired by the Contractor at his own expense upon direction by the SAWS's "COI".
- 5.22 DUST CONTROL - The Contractor will apply appropriate amounts of water (or other appropriate substance), to the area under construction and on detours as required to maintain sufficient moisture content in the surface layer for dust control.
- 5.23 SANITARY PROVISIONS - The Contractor shall provide and maintain in a neat, sanitary condition, rest room facilities for the use of his employees and authorized on-site visitors as may be necessary to comply with the requirements and regulations of the City Health Department and of the State Department of Health.
- 5.24 USE OF EXPLOSIVES - The Contractor may employ the use of explosives on SAWS projects provided he strictly adheres to the following conditions:
- .1 For informational purposes only, notify the Consultant and/or Vice President of Engineering or his duly authorized representative in writing of the intended use of explosives on the Project.
 - .2 Furnish Commercial General Liability Insurance on an occurrence basis in the amounts specified in accordance with Paragraph 5.7.1.2 (G)
 - .3 Obtain an "Explosives Permit "from the City Fire Marshal.
 - .4 Conform with Chapter 15, Article VIII "Explosives" of the City Code of the City of San Antonio, a copy of which is on file in the Office of the City Clerk.
 - .5 Employ a person or persons who possess an individual Explosives Permit and who shall have met the experience requirements of the City Fire Marshal.
- 5.25 WATER - The responsibility shall be upon the Contractor to provide and maintain an adequate supply of water for construction and on-site domestic consumption. Any connections and piping that the Contractor deems necessary for providing and maintaining an adequate water supply to the jobsite shall be installed at his expense and at locations approved by the SAWS's "COI". Before final Project acceptance, all temporary connections and piping installed by the Contractor in accordance with this paragraph shall be removed in a manner satisfactory to the SAWS's "COI".
- 5.26 ELECTRICITY - All electric current required by the Contractor at the jobsite shall be procured by Contractor. All necessary meters, switches, connections and wiring shall be installed at locations approved by the SAWS's "COI". Before final acceptance, all meters, switches, connections and wiring installed by the Contractor pursuant to this paragraph shall be removed in a manner satisfactory to the SAWS's "COI".
- 5.27 CLEANING
- .1 The Contractor shall at all times keep the Project premises safe and free from accumulation of waste materials or rubbish caused by the Work under this Contract.
 - .2 Upon completion of the Work, and prior to the Owner's final inspection, the Contractor shall present the premises in a neat and clean condition, prepared for acceptance by Owner.
 - .3 Prior to final acceptance of the Work, Contractor shall reasonably restore the Project site to its pre-Project condition (accounting for such restoration concerns as cosmetic appearance, landscaping, drainage gradients, accessibility, etc.) to the extent permitted by the Project improvements. All of this incidental Work to be performed by Contractor to the satisfaction of the SAWS's "COI".
- 5.28 ACCESS REQUIREMENTS - The Contractor shall provide access to residents and businesses affected by the construction of this project to the greatest extent possible.
- 5.29 SAFETY PRECAUTIONS AND PROGRAMS
- .1 In the performance of this Contract the CONTRACTOR shall protect the public, SAWS and the

City of San Antonio by taking reasonable precaution to safeguard persons from death or bodily injury and to safeguard property of any nature whatsoever from damage. Where any dangerous condition or nuisance exists in and around construction sites, equipment and supply storage that are in any manner connected with the performance of this Contract, the CONTRACTOR shall provide and maintain reasonable warning of such danger or nuisance. The CONTRACTOR shall not create any dangerous condition or nuisance of any nature whatsoever in connection with the performance of this Contract including, but not limited to, excavations and obstructions, unless necessary to its performance, and in that event the CONTRACTOR shall provide and maintain at all times reasonable means of warning of any danger or nuisance so created. The duties of the CONTRACTOR in this paragraph shall be nondelegable and the CONTRACTOR'S compliance with the specific recommendation and requirements of SAWS as to the means of warning shall not excuse the CONTRACTOR from the faithful performance of these duties should such recommendations and requirements not be adequate or reasonable under the circumstances. The Contractor shall take reasonable precautions for the safety of and shall provide protection to prevent damage, injury, or loss to:

- .1.1 All employees on the Work, and all other persons who may reasonably be foreseen to be affected by the Work.
- .1.2 All the Work and all materials to be incorporated at street crossings, along proposed detour routes, and at material stockpiles. Where directed by the Vice President of Engineering or his duly authorized representative, the Contractor shall provide and maintain suitable warning signs, barricades and lights, in accordance with the details included in the Contract Documents, to direct traffic around the Work in progress and to assure the safety of the public. The Contractor shall provide adequate warning signs, barricades, lights and, where necessary, flagmen for the Project or portions of the Project within which operations are being prosecuted in any one day or which will be closed over night.
- .1.3 Other property at the site or adjacent thereto including but not limited to, trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- .2 The Contractor shall comply with the U.S. Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (Public Law 91-596 and all subsequent amendments) and under Section 107 of the Contract Work Hours and Safety Standards Act (Public Law 91-54 and all subsequent amendments). This project is subject to all of the Safety and Health Regulations (CFR 29, Part 1926 and all subsequent amendments) as promulgated by the U.S. Department of Labor on June 24, 1974 and CFR 29, Part 1910 and all subsequent amendments, General Industry Safety and Health Regulations Identified As Applicable to Construction. Contractors shall be knowledgeable with the requirements of these regulations and any amendments thereto.
- .3 On trench excavation that exceeds a depth of five feet, trench excavation protection shall be accomplished as required by the most current provisions of part 1926 subpart P - Excavations, of the Occupational Safety and Health's Standards and interpretations and as further defined in the note(s) on the Plans and other Contract Documents.
- .4 In any emergency affecting the safety of persons or property, the Contractor shall act to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor resulting from emergency Work shall be considered by Owner in accordance with Articles VI and VIII for Completion Time.
- .5 The Contractor shall provide, at the site, such equipment and medical facilities as are necessary to supply first aid service to anyone who may be injured in connection with the Work. Such equipment shall comply with the most current regulations of the Occupational Safety and Health Administration of the United States Department of Labor.
- .6 The Contractor must promptly report in writing to the Owner all accidents whatsoever arising out of, or in connection with, the performance of the Work whether on or adjacent to the site which caused death, personal injury, or property damage, giving full details and any statements of witnesses. In

addition, if death, serious injury, or serious damage is caused, the accident then shall be reported immediately by telephone or messenger to the Owner.

- .7 SAWS requires all Contractor job sites shall be immediately accessible to appropriate local, State and Federal agency safety officials.

ARTICLE VI. CONTRACT CHANGES

6.1 Change Orders - The Contract Sum and/or the Contract Time may be increased or decreased only by written Change Order. A Change Order signed by the Contractor indicates his acceptance and approval thereof including the adjustment in the Contract Sum and/or the Contract Time. Any compensation paid in conjunction with the terms of a Change Order shall comprise total compensation due the Contractor for the work or the change defined in the Change Order. By signing the Change Order, the Contractor acknowledges that the stipulated compensation includes payment for the Work of Change plus all payment for the interruption of schedules, stop work orders, extended overhead, delay, or any other impact, claim or ripple effect, and by such signing specifically waives any reservation or claim for additional compensation in respect to the subject of the Change Order. Except as modified by Change Order, all Work performed under a Change Order shall be completed in accordance with these Contract Documents.

6.2 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract and applicable law consisting of additions, deletions or other revisions and the Contract Sum and/or the Contract Time will be adjusted accordingly. All such changes in the Work shall be authorized by written Change Order and shall be performed by Contractor under the applicable provisions of the Contract Documents.

.1 Major Changes In The Work - any significant change in a Major Bid Item constitutes a major change in The Work and shall be implemented by a Change Order that shall be binding on the Owner and Contractor. A significant change shall be defined as follows:

- a) An increase or decrease of five percent (5%) or more in the number of units of each Major Bid Item as included in the Consultant's estimated quantities included in the Bid Documents;
- b) An increase or decrease of five percent (5%) or more in the dollar value of a lump sum, Major Bid Item. Any change in the Contract Sum resulting from a major change in the work, which reflects among other things, quantity changes, market price changes, and any quantity or volume discounts that might apply, shall be determined as specified in Para. 6.4.

.2 Minor Changes In The Work - The SAWS's "COI" will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be implemented by a written directive and shall be binding on the Owner and Contractor. The Contractor shall carry out any written directive promptly.

If the Contractor does not agree with the SAWS's "COI" that a minor change in the work will result in no adjustment in Contract Sum or Contract Time, he must so notify the Owner in writing, within seven (7) calendar days of issuance of the written directive and prior to beginning any disputed work. If the Contractor fails to file such written notification he shall waive his rights to file a claim under this section.

6.3 The entire cost of extra Work resulting from Change Orders including the incremental cost of extra Work resulting from any prior Change Orders, modifications, or additions so ordered, shall not cumulatively exceed twenty-five percent (25%) of the original Contract Sum, and provided further that the price is agreed upon in writing by Owner and Contractor before materials are furnished or the Work is done.

6.4 Changes or Credits for the Work covered by an approved Change Order shall be determined by one or a combination of the following methods:

.1 UNIT PRICE - Submitted by the Contractor in the original Contractor Bid Proposal as part of the base bid or as a designated additive or deductive alternate, and if agreed to by the Contractor and the Owner, appropriately adjusted either upward or downward to reflect any increases or decreases in

the amount of labor, material or equipment as they relate to Major Bid Items.

- .2 AGREED CONTRACT CHANGES - Lump Sum Agreement between Owner and Contractor as to the price, quantity and time for changes in the Work. The Contractor shall submit an itemized, estimated cost breakdown together with supporting data. This itemized breakdown shall be in accordance with the requirements established in Article 6.4.3.
- .3 FORCE ACCOUNT - If no Agreed Contract Change or unit price can be reached after good faith negotiations between the SAWS and Contractor, the Owner may direct the Work be performed by the Contractor on a Force Account basis, and payment by the SAWS shall be upon the basis of Actual Cost of the Work as specified in Paragraph 6.4.3.1 plus the participation allowances as specified in Paragraph 6.4.3.2.
 - .3.1 ACTUAL COST OF THE WORK - Actual Cost incurred by the Contractor to perform the additional Work. Contractor shall provide a complete breakdown of the actual costs to the Owner on a daily basis as follows:
 - a. Labor including Foremen
 - b. Materials comprising the Work.
 - c. The Contractor's actual incremental ownership or rental cost of equipment during the time of use on the extra Work. (Rental cost may be based on current Southwest Regional AGC, Association of Equipment Distributors regional computations or equivalent)
 - d. Power and consumable supplies for the operation of power equipment.
 - e. Insurance, any extra bond premiums, Social Security and unemployment contributions, and benefits.

4 PARTICIPATION ALLOWANCE

<u>Participant</u>	<u>Overhead</u>	<u>Profit</u>	<u>Commission</u>
To Contractor on his Project on Work performed by other than his own forces:	0%	0%	5%
To first tier Subcontractor on Work performed by his subtier Subcontractors:	0%	0%	5%
To Contractor and/or the first tier Subcontractors for that portion of the Work performed with their own respective forces:	10%	10%	0%

Not more than four categories of percentages, not to exceed the maximum percentages shown above, will be allowed regardless of the number of subtier subcontractors: For proposals covering both increases and decreases in the amount of the Contract, the application of overhead and profit percentages shall be on the net increase in Actual for the Contractor or Subcontractor performing the Work. However, where the Contractor or first tier Subcontractor receives proposals for additive and deductive amounts from separate subtier subcontractors, the commission shall be allowed on the added amounts prior to subtraction of the credit amounts. The cost of such extra Work shall be added to the Contract Sum by a Written Change Order as specified in Paragraph 6.1.

6.5 DELETION OF WORK - The Owner may, pursuant to State Statute, unilaterally order the Contractor to omit up to twenty five percent (25%) of the original Contract Sum and associated Work, as specified in Paragraph 6.2.

6.6 CLAIMS FOR ADDITIONAL COSTS

- .1 If the Contractor pursues a claim for an increase in the Contract Sum prior to final Contract Settlement, he shall give the Owner written notice thereof with a simultaneous information copy to the Consultant, within thirty (30) days after the Contractor knows, or should have known, of the events giving rise to such Contractor claim. This notice shall be presented in writing to the Owner and Consultant by the Contractor before proceeding to execute the disputed Work, except in an emergency endangering life or property in which case the Contractor shall proceed in accordance with Paragraph 5.28.4. No such Contractor claim shall be valid unless the Contractor follows the procedure outlined herein. If the Owner and the Contractor cannot agree on the amount of the adjustment in the Contract Sum, if any, it shall be determined by administrative procedures as provided by Article X. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.
- .2 If the Contractor claims that additional cost will be incurred because of, (1) any written Owner or Consultant interpretation of the Contract Documents, (2) any order by the Owner to stop the Work pursuant to Paragraph 4.7.1 where the Contractor was not at fault, (3) any written order involving a perceived minor change in the Work issued pursuant to Paragraph 6.2.2, the Contractor shall make such claim as provided in Paragraph 6.6.1.

6.7 NO DAMAGES FOR DELAY CLAUSE

- .1 No payment or compensation of any kind shall be made to the contractor for damages because of hindrance or delay from any cause on the progress of the work, whether such hindrance or delays be avoidable or unavoidable.

ARTICLE VII. CONTRACT PAYMENTS

- 7.1 ESTIMATED QUANTITIES AND MEASUREMENT - The estimated quantities of the various elements of Work to be done and material to be furnished are approximate only and are provided by Consultant and Owner as a basis for Owner comparison of proposals and award of Contract. It is expressly understood and agreed by Owner and Contractor that the actual amounts of Work to be done and material to be furnished may differ somewhat from these estimates. The quantities of Work actually performed by Contractor will be computed on the basis of measurements taken by the Owner's representatives, and these measurements shall be final and binding on Contractor.
- 7.2 PROGRESS PAYMENTS - During the latter part of each month as the Work progresses on all SAWS Contracts regardless of Contract Sum, said Owner, or his designated representatives, and Contractor shall determine either the cost of the labor and materials or quantities incorporated into the Work during that month and actual invoiced cost of Contractor acquired materials stored on the Project site, and/or within off-site storage facilities either owned or leased by the Contractor. Upon receipt of a complete and mathematically accurate Construction Estimate Certification Form from the Contractor, the SAWS shall make payments to Contractor within thirty (30) calendar days on Contracts totaling four hundred thousand (\$400,000.00) dollars or less, based upon such cost determination and at the Contract unit prices in a sum equivalent to ninety percent (90%) of each such invoice. The remaining ten percent (10%) retainage shall be held by the SAWS until the final Contract Settlement. However, where the Contract amount exceeds four hundred thousand dollars (\$400,000.00), installments shall be paid to Contractor at the rate of ninety-five percent (95%) of each monthly invoice within thirty (30) calendar days of Owner receipt of a complete and mathematically accurate Construction Estimate Certification Form from the Contractor, and the retainage held until final Contract Settlement shall be five percent (5%).

The Vendor/Subcontractor Report Form should be completed for each monthly invoice submitted. This form should reflect the SMWB Subcontractors selected for participation from your Good Faith Effort Plan. The form should be sent directly to Ruben M. Saenz, SMWBE Development Officer, San Antonio Water System, Administrative Building, Suite 667, 2800 U.S. Hwy 281 North, Suite 667, San Antonio, TX 78212, phone (210) 233-3420.

Owner's payment of installments shall not in any way be deemed to be a final acceptance of any part of the Work by Owner, and will not prejudice Owner in the final settlement of Contract account nor relieve the Contractor from completion of the Work as herein provided.

- 7.3 WITHHOLDING OF PAYMENT - In the event that the Owner discovers evidence of Contractor and/or Work noncompliance with the Contract Documents subsequent to approval of the Construction Estimate Certification Forms, the Owner may revoke or otherwise amend that part of any Construction Estimate Certification Form to such extent as may be necessary to withhold monies to protect the Owner from loss on account of:
- a) Defective Work not remedied by Contractor.
 - b) Persistent and uncured Contractor non-compliance with the administrative provisions of the Contract Documents.
 - c) Damage to Work of another Contractor.
 - d) Liquidated Damages assessed by Owner for Contractor failure to maintain scheduled progress in accordance with interim progress milestones, if any are specified in the Contract Documents, and/or Contractor failure to meet final completion date.
 - e) Receipt of written notice by the Owner of Contractor's unpaid bills, as stipulated in Article 5472a, V.T.C.S., if the Contractor has not provided a payment bond and only if the Contract Sum does not exceed \$25,000.00. Any funds so withheld by Owner shall be released to the Contractor if he furnishes either a special indemnity bond to Owner securing release of lien as provided in Article 5472b-1, V.T.C.S., or Contractor proof of payment of disputed bills.
 - f) "Indemnification" as provided for in Paragraph 2.3.

When the above Contractor deficiencies are cured, Owner will make payment for amounts withheld because of the deficiencies within (30) thirty calendar days.

- 7.4 FINAL PAYMENT - Contractor shall not be entitled to receive payment of any sum in excess of the cumulative amounts paid upon such monthly invoices as outlined above until forty-five (45) calendar days after Owner transmittal of the Letter of Conditional Approval and not before all the stipulations, requirements and provisions of this Contract are faithfully performed and complied with by Contractor, and unless and until said structures, Work and improvements shall be entirely completed, and delivered to, and accepted by the SAWS in accordance with the Contract Documents. Completion, delivery and acceptance of the Work is evidenced by the Final Certificate of Acceptance issued by the Owner and such Certificate of Acceptance is approved by the SAWS President/C.E.O. or his designated representative. The Owner shall prepare the final invoice as the basis for final Contract settlement. Owner may deduct from the amount of such final invoice and retain any and all sums which are to be deducted by SAWS or paid or allowed by Contractor to SAWS, or which are to be retained by Owner for reasons previously stated in Paragraph 7.3.

- .1 NOTARIZED AFFIDAVIT - Before final payment for the work by the Owner, the Contractor shall submit to the Manager, Contract Administration a notarized affidavit in duplicate stating under oath that all subcontractors, vendors, and other persons or firms who have furnished or performed labor or furnished materials for the work have been fully paid or satisfactorily secured. Such affidavit shall bear or be accompanied by a statement, signed by the surety company who provided the Payment Bond for the work, to the effect that said surety company consents to final payment to the Contractor being made by the Owner.

- 7.5 OWNER TO FINALLY DETERMINE ALL AMOUNTS PAYABLE OR CHARGEABLE - It is expressly understood and agreed by Contractor that subject only to the prices, terms and provisions specifically set forth in the Contract Documents including Change Orders, the written estimates and Certificates of the Owner shall be final in fixing and determining amounts payable or chargeable hereunder to Contractor by SAWS as required by the other terms and conditions hereof. Also, in case of controversy, the monthly construction estimates and Certificates of Final Acceptance shall be final in fixing and determining all sums to be deducted and retained by SAWS for reasons as stated in Paragraph 7.3, out of any funds otherwise estimated as payable to Contractor by SAWS.

7.6 CLAIMS BY THIRD PARTIES FOR LABOR OR MATERIALS

- .1 Contractor hereby agrees to promptly pay all persons supplying labor, services and materials in the prosecution of the Work provided for in this Contract and any and all duly authorized modifications or Change Orders of said Contract that may hereafter be made, and shall fully indemnify and hold harmless the SAWS and its agents against any and all claims, liens, suits or actions asserted by any person, persons, firm or corporation on account of labor, materials or services furnished such Contractor during the prosecution of the Work herein undertaken. Contractor shall execute a payment bond in accordance with other sections governing same herein for this purpose. Before the SAWS shall be obligated to pay any amount to Contractor on final Contract settlement, Contractor shall execute a sworn, written and notarized statement on an affidavit form to be supplied by the SAWS Director of Finance and filed with the Director of Finance, along with a "consent of surety" letter endorsing final payment to Contractor, evidencing that all labor employed and all equipment and materials incorporated into the Construction of the Work have been either fully paid for by Contractor and Subcontractors, or that any pending disputes over payment are being properly addressed by the surety.
- .2 Suppliers, any subcontractors, and persons claiming to have performed any labor, or to have supplied any equipment and materials toward the performance of this Contract, and who claim not to have received proper compensation from the Contractor or Subcontractors for same, shall be instructed by Owner and Contractor that written and documented claims must be sent directly to the Contractor and his Surety in accordance with Subchapter B, Section 2253.025, Texas Government Code. The Owner will furnish to claimants, in accordance with such Subchapter, a copy of the Contractor's Payment Bond and Contract as provided therein upon claimant's written request. **The Owner shall further furnish a statement to claimants that Claimants are cautioned that no legal or equitable lien exists on the SAWS funds yet unpaid to the Contractor, and that reliance on notices sent only to the Owner may result in loss of claimant's rights to timely perfect recovery against the Contractor and/or his Surety. The Owner is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any unauthorized representation by any agent or employee of Owner to the contrary.**

ARTICLE VIII. CONTRACT COMPLETION TIME

- 8.1 COMMENCEMENT OF WORK - The Work called for in this Contract shall be commenced by Contractor within seven (7) calendar days after issuance by the SAWS of the written Authorization To Proceed. Under no circumstances shall the Work commence prior to Contractor's receipt of SAWS issued, written Authorization To Proceed. Computation of Contract Time will begin upon actual commencement of Work by the Contractor during the seven (7) calendar day period referenced above, or upon the eighth (8th) calendar day (assuming the eighth calendar day is a day upon which Work may lawfully and Contractually be performed), whichever occurs first.
- 8.2 COMPLETION OF WORK - After commencement of Work as outlined in Paragraph 8.1, the Contractor shall prosecute the Work continuously, diligently and uninterruptedly throughout the Contract Time period, during which period of time Contractor, all subcontractors and suppliers are bound and obligated at all times to employ sufficient Work force and supervisory diligence to complete said structures, Work and improvements, and to deliver same over to the SAWS in a timely acceptable, completed, undamaged and clean condition. The time of beginning, rate of progress and time of completion of said Work are hereby declared by Owner and understood by Contractor to be "OF THE ESSENCE" to this Contract. The Owner may suspend said Work either partially or totally as provided for in Paragraph 4.8 and 4.9.
- 8.3 WORKING DAY/CALENDAR DAY CONTRACT
 - .1 WORKING DAY is defined as a day, not including Sundays or SAWS Designated Holidays, on which the weather or other jobsite conditions not under the control of the Contractor will permit the

performance of this Contract Work for a continuous period of not less than seven (7) hours between 7:00 a.m. and 6:00 p.m. If the Contractor elects to perform Work on Saturday, the Contractor will be charged a Working Day, if weather or other jobsite conditions permit continuous Work operation for seven (7) or more hours. Nothing in this Paragraph shall be construed as prohibiting the Contractor from working on Saturdays if so desired and gives SAWS's "COI" and Vice President of Engineering or his duly authorized representative at least the prerequisite forty-eight (48) hours written notice of intent to perform Work on Saturday so that Owner's representatives may be scheduled to observe/inspect said Work. Work on Sundays or SAWS Designated Holidays will not be permitted except in cases of extreme emergency, and then only with the written permission of the Vice President of Engineering or his duly authorized representative. If Sunday or SAWS Designated Holiday Work is permitted, Contract Time will be charged on the same basis as computing regular Working Days and the SAWS "COI's" average salary costs @ time and one half will be charged to the Contractor.

Should the Work be delayed necessarily by any damage that may happen thereto by any unusual, unavoidable accident, or by the condition of the weather, or by action of the elements, or by any general strike of employees, or by shortage of materials, or by any injunction, restraining order or other court of competent jurisdiction action, Contractor shall have no claim for any adjustment of the Contract Sum on account of such delay, but Working Days will not be charged by Owner during the period of any such delays.

- .2 CALENDAR DAY - Unless herein otherwise expressly defined, shall mean a calendar day or days of 24 hours each from midnight to the next consecutive midnight. Work on Sundays or SAWS Designated Holidays will not be permitted except in cases of extreme emergency, and then only with the written permission of the Vice President of Engineering or his duly authorized representative. If Sunday or SAWS Designated Holiday Work is permitted, the SAWS "COI's" average salary costs @ time and one half will be charged to the Contractor. Nothing in this Paragraph shall be construed as prohibiting the Contractor from working on Saturdays if so desired and gives SAWS's "COI" and Vice President of Engineering or his duly authorized representative at least the prerequisite forty-eight (48) hours written notice of intent to perform Work on Saturday so that Owner's representatives may be scheduled to observe/inspect said Work.
- 8.4 FAILURE TO COMPLETE WORK ON TIME - If the Contractor fails to complete the Contract in the time specified by Owner in the Contract Documents and agreed to by Contractor through execution of this Contract, Contract Time charges will continue to be made for each Working or Calendar Day (depending upon which type Contract is entered into) thereafter. The time set forth in the Contract for the completion of the Work is an ESSENTIAL ELEMENT of the Contract. For each Working or Calendar Day that any Work shall not be complete, after the expiration of the Working or Calendar Days specified in the Contract, (to include Working or Calendar Days charged for correction of Contractor deficiencies found during the final inspection), plus, any extended days allowed by Owner, the amount of liquidated damages assessed per day as stipulated in the Contract will be deducted from the money owed or to become due the Contractor, not as a penalty but as liquidated damages owed the SAWS for extended expenses, loss and public inconvenience resulting from Contractor's failure to complete said Work within the Time Contractor agreed to by execution of this Contract. Contractor and SAWS agree that such liquidated damages as are set prior to the Contract execution are for projected reasonable costs that are otherwise difficult for either Party to forecast and will be incurred by the SAWS due to Contractor completion beyond the number of Working or Calendar Days calculated herein by the SAWS.
- 8.5 CONTRACT TIME STATEMENT - The Owner, or authorized representative shall furnish a "Contract Time Statement" to the Contractor after the end of each calendar month, showing the number of Working or Calendar Days charged by Owner and of such non-chargeable Days credited to the Contractor during each month. Such statement shall become final and binding upon the Contractor without exception, unless Contractor notifies the Owner, in writing of any Contract Time Statement discrepancies claimed by the twentieth (20th) calendar day following Owner issuance date on the Contract Time Statement.
- 8.6 Liquidated Damages for Failure to Complete on Time – For the purpose of assessing liquidated damages, the amount of the contract noted on the table below is defined as the original contract sum awarded. The Contractor agrees that time is of essence of this contract and that for each day of delay beyond the number of days herein agreed upon for the completion of work herein specified and contracted for, after due allowance for such extension of time as is provided for under the provisions of the proceeding paragraph,

the Owner may withhold permanently for the Contractor's total compensation, not as a penalty but as liquidated damages, the sum per day given in the following schedule:

AMOUNT OF LIQUIDATED DAMAGE

<u>Amount of Contract</u>	<u>Damages Per Day</u>
Less than \$ 50,000	\$ 50.00
\$ 50,001 to \$ 100,000	\$100.00
\$ 100,001 to \$ 250,000	\$150.00
\$ 250,001 to \$ 500,000	\$200.00
\$ 500,001 to \$ 750,000	\$250.00
\$ 750,001 to \$1,000,000	\$300.00
\$1,000,001 to \$1,500,000	\$350.00
\$1,500,001 to \$2,000,000	\$400.00
\$2,000,001 to \$2,500,000	\$450.00
\$2,500,001 to \$3,000,000	\$500.00
\$3,000,001 to \$3,500,000	\$550.00
\$3,500,001 and over	\$600.00

ARTICLE IX. PROJECT COMPLETION AND ACCEPTANCE

9.1 FINAL ACCEPTANCE of the Project will be considered only after all stipulations, requirements and provisions of this Contract are faithfully completed and the Project is delivered to the SAWS by Contractor in an acceptable condition for the intended use by Owner. In the event that all major Contract pay items are complete and only minor clean-up operations remain for Contract completion, the Owner has the discretionary authority to issue a Letter of Conditional Approval. Should the Vice President of Engineering or his duly authorized representative's Letter of Conditional Approval contain conditions for the final Acceptance of the Work, Contract Time will continue to be charged against the Contractor until such conditions have been corrected to the satisfaction of the Owner.

- .1 Final Release of Retainage - Contractor shall be entitled to receive payment of all retainage within forty-five (45) calendar days of completion, receipt and acceptance of all required "completion items" as stipulated below:
 - a) The "Semi-Final Pay Request" indicating that no additional monthly invoices will be submitted by the contractor for payment.
 - b) The "Conditional Letter of Acceptance" with all "Punch List Items" completed indicating that Construction Inspection Division is approving the Release of Retainage.
 - c) When applicable, the "Recapitulation Change Order" reconciling all Pay Item Quantities. Recapitulation Change Orders exceeding \$25,000.00 positive or negative require formal Board of Trustee approval per SAWS Contracting and Purchasing Policy.
 - d) The "Contractor Certification" indicating that all subcontractors and suppliers have been paid.
 - e) The "Consent of Surety" indicating the Bonding Agent's approval to remit all retainage directly to the contractor.
 - f) The Operations Group, Treatment Group or PPQC Group Vice President's "Written Approval" indicating the Group Vice President's consent to release the retainage to the contractor.
 - g) When applicable, the "TWDB Certificate of Approval & Release Retainage" letter indicating Texas Water Development Board's approval to remit all retainage directly to the contractor.

9.2 PARTIAL ACCEPTANCE by Owner for beneficial occupancy of any completed part of the Work, which has specifically been identified in the Contract Documents as being eligible for early Owner Acceptance, or which Owner, Consultant and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner without significant interference with Contractor's performance of the remainder of the Work, may be accomplished prior to Final Acceptance of the total Work subject to the

following:

- .1 Owner may at any time request Contractor in writing to permit Owner to beneficially occupy any such part of the Work which Owner believes to be ready for its intended use, substantially complete and ready for Final Acceptance. If Contractor agrees, Contractor will certify to Owner and Consultant that said part of the Work is substantially complete and request SAWS to issue a Letter of Conditional Approval, or Final Acceptance for that part of the Work. Within a reasonable time after such request, Owner, Contractor and Consultant shall make an inspection of that part of the completed and Finally Accepted Work to determine its status of completion. Warranties on that part of the Work beneficially occupied by Owner will commence upon issuance of the Letter of Conditional Approval. Any Work items remaining to be completed and Finally Accepted as outlined in the Letter of Conditional Approval will have Warranty commencement upon completion and Final Acceptance by Owner.
 - .2 Owner may at any time request Contractor in writing to permit Owner to take over operation of any such Owner part of the Work although it is not Substantially Complete. A copy of such request will be sent to the Engineer and within a reasonable time thereafter, Owner, Contractor, Engineer and Consultant shall make an inspection of that part of the Work affected by the request to determine its status of completion and will jointly prepare a list of the items remaining to be completed or corrected before Final Acceptance. If Contractor does not object in writing to Owner, Engineer and Consultant that such part of the Work is not ready for separate operation by Owner, or that separate operation by Owner will significantly interfere with Contractor's remaining operations, Owner will finalize the list of items to be completed or corrected and will deliver such list to Contractor together with a written recommendation as to the division of responsibilities pending Final Acceptance with respect to security, operation, safety, maintenance, warranties, utilities, insurance, and retainage for that part of the Work taken over for operation by Owner. During such operation, Owner shall allow Contractor reasonable access to complete or correct items on said list and to complete other related Work.
- 9.3 Warranty/Correction Period - During a period of 24 months from and after the date of the final acceptance by the Owner of the work embraced by this contract, the Contractor shall make all needed repairs arising out of defective workmanship or materials, or both, which in the judgement of the Owner shall become necessary during such period. If within 3 days after the receipt of a notice in writing to the Contractor or his agent, the Contractor shall neglect to make or to undertake with due diligence the aforesaid repairs, the Owner is hereby authorized to make such repairs at the Contractor's expense. In case of an emergency where, in the judgement of the Owner, delay would cause a serious loss or damage, repairs may be made without notice being sent to the Contractor, and the Contractor shall pay the cost thereof.

ARTICLE X. DISPUTES:

- 10.1 GENERAL - Prior to any anticipated litigation between the Owner and the Contractor, both hereby agree that disputed matters shall first be submitted to Owner administrative appellate procedures as described below:
- .1 Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under this Contract which is not disposed of by mutual agreement shall be initially decided by the Owner (as represented by the decision of the Owner) who shall reduce his decision to writing and promptly mail or otherwise furnish a copy thereof to the Contractor. The decision of the Owner shall be final and conclusive unless within thirty (30) calendar days from the date of issuance of such decision by Owner the Contractor mails or otherwise furnishes to the Owner a written notice of appeal addressed to the SAWS President/C.E.O., whose appellate decision on behalf of the SAWS shall be the final and conclusive SAWS decision. In connection with any appeal under this Article, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of the appeal to persons to be promptly appointed by the SAWS President/C.E.O. to review such disputed matters. The SAWS department sponsoring the Project will also be allowed to present information supporting Owner's position.
 - .2 Pending final President/C.E.O. decision after a dispute hearing, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the President/C.E.O. decision. Neither the SAWS or the Contractor is precluded from resorting to litigation or other

remedy at law nor in equity to perfect a legal filing prior to the expiration of an applicable statute of limitations or after this Owner administrative review process is completed.

ARTICLE XI. SUPPLEMENTAL AND SPECIAL CONDITIONS

- 11.1 GENERAL - When the Work contemplated by the Owner is of such a character that the foregoing Standard General Conditions of the Contract cannot adequately cover necessary and additional contractual provisions, the Contract Documents may include Supplemental and Special Conditions as described below:
- .1 SUPPLEMENTAL CONDITIONS shall describe any additional procedures and requirements of Contract administration to be followed by the Contractor, Owner, and Owner representatives. Supplemental Conditions may expand upon matters covered by the Standard General Conditions, where necessary.
 - .2 SPECIAL CONDITIONS shall relate to terms, conditions and procedures related to a particular project and be unique to that project.
- 11.2 ARCHAEOLOGICAL: “Unidentified Archaeological Sites”: If the contractor should encounter archaeological deposits during construction operations, the contractor must stop excavation immediately and contact the Owner at 704-7124, who will then contact appropriate agencies for an archaeological investigation. The contractor cannot begin excavation again in this area without written permission from the Owner.
- 11.3 FUNDED PROJECTS - On State or Federally funded projects, the Owner may waive, suspend or modify any Article in these General Conditions which conflicts with any State or Federal statute, rule, regulation or procedure, where such waiver, suspension or modification is essential to receipt by the Owner of such State or Federal funds for the Project. In the case of any project financed in whole or in part by State or Federal funds, any Contract standards or provisions required by the enabling State or Federal statute, or any State or Federal rules, regulations or procedures adopted pursuant thereto that conflict with, or preempt these local Standard General Conditions, shall be controlling.

- END -

TRILATERAL AGREEMENT

STATE OF TEXAS §
COUNTY OF BEXAR §

KNOW ALL MEN BY THESE PRESENTS:

That this Agreement made and entered into this ___ day of _____, A.D, ____, by and between **THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES**, hereinafter called **THE SAN ANTONIO WATER SYSTEM, COUNTY OF BEXAR, STATE OF TEXAS**, Acting through its Contracting Officer, First Party, hereinafter termed the Owner, _____, Second Party, hereinafter termed the Developer Customer, and _____, Third Party, hereinafter termed the Contractor.

WITNESSETH: That for and in consideration of the commitments and agreements hereinafter mentioned to be made and performed by the respective parties to this Trilateral Agreement, Contractor agrees to commence and complete the construction of certain improvements at the prices set forth in the Contractor's Proposal for the San Antonio Water System Job No. _____, dated _____, the same being designated as San Antonio Water System Project _____.

The Contractor shall perform all work shown on the Plans and described Specifications and shall meet all requirements of this Agreement and such Orders and Agreements for Extra Work as may subsequently be entered by the above named parties to this Agreement.

The Contractor shall not offer, confer, or agree to confer any benefit or gift to any San Antonio Water System employee.

The Contractor hereby agrees to commence work under this Contract within seven (7) days after issuance by the SAWS of the written Authorization To Proceed. Under no circumstances shall the work commence prior to the Contractor's receipt of SAWS issued, written Authorization To Proceed. Computation of Contract Time will begin upon actual commencement of Work by the Contractor during the seven (7) calendar day period referenced above, or upon the eighth (8th) calendar day (assuming the eighth day is a day upon which Work may lawfully and Contractually be performed), *whichever occurs first*. All work specified in these Contract Documents shall be completed within _____ calendar days.

The parties agree that as a public body, Owner is authorized by such state law to negotiate change orders up to and including the amount of \$25,000.00 acting by and through its duly designated administrative officer (Contracting Officer). It is agreed and understood that any change orders which increase the work of the contract in excess of 25% of the bid contract price, must be subject of a supplemental agreement approved by the San Antonio Water System Board of Trustees of San Antonio as in case of original contracts. The work of the contract may be decreased over 25% with the consent of the Contractor.

The Owner and Developer Customer agree to pay the Contractor in current funds, and to make payments on account, for the performance of the work in accordance with this Agreement, at the prices set forth in the Contractor's Proposal, subject to additions and deductions, all as provided in the documents incorporated herein by reference.

The following documents, as may be amended from time to time, together with this Contract, comprise the Agreement, and they are as fully a part thereof as if herein repeated in full:

- | | |
|------------------------------------|---|
| Invitation to Bidders | SAWS Construction and Material Specifications |
| Instructions to Bidders | Plans and Technical Specifications |
| Proposal | Special and Supplemental Conditions |
| *Payment Bond | *Payment Specifications |
| *Performance Bond | *Conveyance of Facilities |
| General Conditions of the Contract | Addenda |
| Proof of Insurance | Change Orders |
| SAWS Utility Service Regulations | Good Faith Effort Plan |
| *Items attached to this document | |
- The Plans, designated San Antonio Water System Project _____ and Number _____ to _____ INCLUSIVE.

The Developer Customer must provide the Owner an Owner approved performance guarantee for the Developer Customer's share of the oversize cost based on the Contractor's Proposal at the time the Developer Customer signs this contract. Should the Developer Customer's delay in providing the required performance guarantee or delay in signing this contract result in any postponement of project or price escalation charges, the Developer Customer will be responsible for 100% of these costs. Should the Developer Customer default on payment of the Developer Customer's share of the oversize cost, the Owner may at its discretion implement any or all of the following: deny the Developer Customer impact fee credits for their share of the oversize, if applicable, deny the use or transfer of existing impact fee credits by the Developer Customer, deny the issuance of new services to the Developer Customer, deny the issuance of new connections or services to the oversized infrastructure and/or exercise the performance guarantee.

In witness thereof of the Parties of these presents have executed this Agreement in the year and day of first above written.

SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES, OWNER

By: _____
Name: _____
Title: _____

DEVELOPER

By: _____
Name: _____
Title: _____

CONTRACTOR

By: _____
Name: _____
Title: _____

CONTRACTOR'S PERFORMANCE BOND

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENCE:

COUNTY OF BEXAR §

That _____ of _____ County, _____, as Principal, and _____, as Surety, a corporation organized under the laws of the State of _____, and duly authorized to do business in the State of Texas, are held and firmly bound unto the City of San Antonio, Texas, a municipal corporation, for the use and benefit of the SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES, County of Bexar, State of Texas (BOARD), and _____ of _____ County, Texas

(DEVELOPER CUSTOMER), in the sum of _____ (\$ _____), to be paid in Bexar County, Texas, for the payment whereof Principal and Surety bind and obligate themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents;

THE CONDITIONS OF THIS BOND, HOWEVER, ARE SUCH THAT WHEREAS,

the said _____, hereinafter called CONTRACTOR or PRINCIPAL, has made and does this day make and enter into a certain Contract in writing with said BOARD and DEVELOPER CUSTOMER, a copy of which is attached hereto and made a part hereof, for the construction and completion of certain structures, work, and improvements generally described as:



and for the faithful performance and observance of various other matters and things in connection with said work; all of which matters will more fully appear from said Contract, together with the plans, specifications and all other contract documents for said work, which are made a part hereof;

Now, therefore, if CONTRACTOR, the principal party to this obligation, shall: (1) faithfully construct and complete said structures, work, and improvements, and shall observe, perform, and comply with all the terms, conditions, stipulations, undertakings, and provisions of said Contract and the plans and specifications and all other instruments according to their intent and purpose insofar as the same relate to or are incident to the construction and completion of said structures, work, and improvements as distinguished from the repair and maintenance thereof after acceptance thereof, and (2) repair any and all defects in the work occasioned by and resulting from defects in materials furnished by, or workmanship of, the CONTRACTOR in performing the work covered by said Contract occurring within a period of twenty four (24) months from the date of the Contract Completion Certificate, then and thereupon this obligation shall become null and void, but otherwise to remain in full force and effect; and it is hereby further understood and agreed that this

bond shall be a continuous obligation against the Principal, and each member of said Principal party hereto and each and every Surety hereon, and that successive recoveries may be had hereon for each and every breach of this bond until the full amount thereof shall have been exhausted; and that the liability of each and every Surety on this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by BOARD, nor by the exercise or failure to exercise by or on behalf of the BOARD of any right or remedy provided by the Contract or specifications or by any law or ordinance; and further, that if any legal action be filed on this bond, venue shall lie in Bexar County, Texas.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work performed thereunder, or plans, specifications, drawings and exhibits accompanying the same shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder.

The Surety shall not be liable under this bond to the obligees, or either of them unless the said obligees, or either of them, shall make payments to the Principal, strictly in accordance with the terms of said Contract as to payments and/or shall perform all the other obligations to be performed under said Contract at the time and in the manner therein set forth.

This bond is given pursuant to the provisions of TEX.REV.CIV.STAT.ANN. Art. 5160, as amended, and other applicable statutes of the State of Texas.

IN TESTIMONY WHEREOF, WITNESS OUR HANDS and seal hereon as of the ____ day of _____, 20____.

Mailing Address of Contractor and Principal:



By: _____

Name: _____

Title: _____

SURETY

Mailing Address of Surety:

By:

Name:

Title:



Approved by the SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES on behalf of the City of San Antonio a municipal corporation, acting by and through its San Antonio Water System Board of Trustees.

By: _____

Name: _____

Title: _____

CONTRACTOR'S PAYMENT BOND



STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENCE:

COUNTY OF BEXAR §

_____ of _____ County, and _____, as Surety, a corporation organized under the laws of the State of _____, and duly authorized to do business in the State of Texas, are held and firmly bound unto the City of San Antonio, Texas, a municipal corporation, for the use and benefit of the SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES, County of Bexar, State of Texas (BOARD), and _____ of _____ County, Texas (DEVELOPER CUSTOMER), for the use, benefit and protection of all persons, firms, corporations, and municipal corporations who may furnish material for or perform labor upon the building, structures, or improvements referred to in the attached Contract, in the sum of _____\$ _____), to be paid in Bexar County, Texas, for the payment whereof Principal and Surety bind and obligate themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents;

THE CONDITIONS OF THIS BOND, HOWEVER, ARE SUCH THAT WHEREAS,

the said _____, hereinafter called CONTRACTOR or PRINCIPAL, has made and does this day make and enter into a certain Contract in writing with said BOARD and DEVELOPER CUSTOMER, a copy of which is attached hereto and made a part hereof, for the construction and completion of certain structures, work, and improvements generally described as:

and for the faithful performance and observance of various other matters and things in connection with said work; all of which matters will more fully appear from said Contract, together with the plans, specifications and all other contract documents for said work, which are made a part hereof;

Now, therefore, if CONTRACTOR, the principal party to this obligation, shall promptly make payment to all

persons supplying labor and material in the prosecution of the work provided for in said Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then this obligation shall become null and void, but otherwise remain in full force and effect; and it is hereby further understood and agreed that this bond shall be a continuous obligation against the PRINCIPAL and each member of said principal party hereto, and each and every Surety hereon, and that successive recoveries may be had thereon for each and every breach of this bond until the full amount thereof shall have been exhausted; and the liability of each and every Surety on this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by BOARD, or by the exercise or failure to exercise by or on behalf of the BOARD of any right or remedy provided by the Contract or specifications or by any law or ordinance; and further, that if any legal action be filed on this bond, venue shall lie in Bexar County, Texas.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work performed thereunder, or plans, specifications, drawings and exhibits accompanying the same shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder.

The Surety shall not be liable under this bond to the obligees, or either of them unless the said obligees, or either of them, shall make payments to the Principal, strictly in accordance with the terms of said Contract as to payments and/or shall perform all the other obligations to be performed under said Contract at the time and in the manner therein set forth.

It is further understood that this obligation is incurred pursuant to TEX.REV.CIV.STAT.ANN. Art. 5160, as amended, and other applicable statutes of the State of Texas and that this obligation is for the benefit and sole protection of all persons, corporations, and municipal corporations supplying labor and material in the prosecution of said Contract. The terms "claimant," "labor," and "materials" as used herein are in accordance with and as defined in said Article.

IN TESTIMONY WHEREOF, WITNESS OUR HANDS and seal hereon as of the _____ day of _____, 20_____.

CONTRACTOR AND PRINCIPAL

Mailing Address of Contractor
and Principal:



SURETY

Mailing Address of Surety:



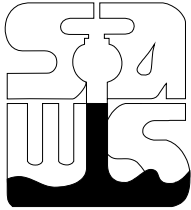
Approved by the SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES on behalf of the City of San Antonio a municipal corporation, acting by and through its San Antonio Water System Board of Trustees.

By: _____

Name: _____

Title: _____

PAYMENT SPECIFICATIONS EXHIBIT
ATTACHMENT 1



SAN ANTONIO WATER SYSTEM
P.O. BOX 2449
SAN ANTONIO, TEXAS 78298-2449

DRAFT

Project Name

Developer and San Antonio Water System Allocation of Project Costs

Developer (Developer Name)

Construction \$\$

SAWS

Construction	\$\$
Engineering Fees*	\$\$
Construction Contingency*	\$\$
Total	\$\$

* SAWS contribution to engineering fees and contingencies will be based on the same percentage participation as outlined for the construction funds. The amounts listed above indicate the maximum SAWS contribution for these fees.

PROJECT BREAKDOWN

The Developer will/will not receive impact fee credits for their portion of the project.

**PAYMENT SPECIFICATIONS EXHIBIT
ATTACHMENT 2**



San Antonio Water System

PROJECT CONSTRUCTION PROGRAM

Job Number(s):			
Project Name:	PAYMENT ESTIMATE		
Purchase Order:		No:	
Work Completed as of:			

Payable to:	Vendor #:
	Phone:
	Fax:

PROJECT COST INFORMATION

	<u>Previous Amount Authorized</u>	<u>This Month's Dollars</u>	<u>Total Dollars To Date</u>
Job No:			
SAWS Water- Basic Contract			
SAWS Water- Change Orders		\$0.00	
SAWS Water- Materials Stored	\$0.00	\$0.00	\$0.00
Total SAWS Water Work	\$0.00	\$0.00	\$0.00

For Internal SAWS Use:	SAWS Participation %
	Less Retainage 5%: \$ -
	Less Previous Payments:
	Amount Due This Period: \$0.00

Job No:			
SAWS Water- Basic Contract	\$0.00	\$0.00	\$0.00
SAWS Water- Change Orders	\$0.00	\$0.00	\$0.00
SAWS Water- Materials Stored	\$0.00	\$0.00	\$0.00
Total SAWS Sewer Work	\$0.00	\$0.00	\$0.00

For Internal SAWS Use:	SAWS Participation %
	Less Retainage 5%: \$ -
	Less Previous Payments: \$ -
	Amount Due This Period: \$0.00

Job No:			
SAWS Water- Basic Contract			\$0.00
SAWS Water- Change Orders			\$0.00
SAWS Water- Materials Stored			\$0.00
Total SAWS Recycle Work	\$0.00	\$0.00	\$0.00

For Internal SAWS Use:	SAWS Participation %
	Less Retainage 5%: \$ -
	Less Previous Payments:
	Amount Due This Period: \$0.00

Total Due This Estimate: \$0.00

SIGNATURE CERTIFICATIONS

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Contractor	Date	Area Construction Inspector	Date
------------	------	-----------------------------	------

**PAYMENT SPECIFICATIONS EXHIBIT
ATTACHMENT 3**

**SAN ANTONIO WATER SYSTEM ENGINEERING CONTRACT
PAYMENT ESTIMATE CERTIFICATE
SYSTEM OVERSIZE REIMBURSEMENT FOR ENGINEERING FEES**

SYSTEM Job No.: _____ (Water) For Period _____ to _____ Est. No. _____
 _____ (Sewer) Project Name: _____
 Contract No.: _____

Appropriations

SYSTEM Resolution No.: _____ Date: _____ Amount \$ _____
 SYSTEM Resolution No.: _____ Date _____ Amount \$ _____

Payable to: Name: _____
 Address: _____

RE:

For Professional Services for the above referenced project in accordance with the Trilateral Water Contract.

Approved Construction Bid = \$ _____
 Approved Engineering Design Fees = \$ _____

- | | | | | | |
|----|-------------------------|-------|----|------|----|
| 1. | Design Phase Fee | = 60% | of | \$ = | \$ |
| 2. | Construction Phase Fee | = 25% | of | \$ = | \$ |
| 3. | <u>Completion Phase</u> | = 15% | of | \$ = | \$ |

Amount Due This Estimate:

- | | | | | |
|----|-------------------------|----------|-------------|------------|
| 1. | Design Phase | = _____% | of \$ _____ | = \$ _____ |
| 2. | Construction Phase | = _____% | of \$ _____ | = \$ _____ |
| 3. | <u>Completion Phase</u> | = _____% | of \$ _____ | = \$ _____ |

Total Work Completed to Date: = \$ _____
 (Less Previous Payments): = \$ _____
 Amount Due This Estimate: = \$ _____

Certification is hereby made that this estimate is true and correct and eligible for payment.

 Consulting Engineer (must seal document) Date

 SYSTEM Engineer Date

 Developer Date

 SYSTEM Contract Administration Date

CONVEYANCE OF FACILITIES EXHIBIT

DEVELOPER CUSTOMER proposes to complete the following (hereinafter referred to as the "Facilities", and more particularly described in the plans and specifications previously submitted to BOARD):

Project Description: _____
Contract No. _____ Job No. _____



Facilities-The Developer's share of the total value of all tangible personal property (total cost of material & other costs) to be physically incorporated into the Project realty, as detailed in the project semi-final payment application. All workmanship and materials to be furnished on this contract shall be in accordance with the plans and specifications approved by the BOARD.

Upon completion of the installation by CONTRACTOR and acceptance by the BOARD of the Facilities, such Facilities shall become unconditionally the singular property of the City of San Antonio for the use and benefit of BOARD, the City's water system and the lot owners in said subdivision, and by these presents DEVELOPER CUSTOMER has GRANTED, SOLD, and CONVEYED and does hereby GRANT, SELL and CONVEY free from all liens, deeds, or other encumbrances of any nature whatsoever unto the City of San Antonio for the use and benefit of the SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES, its successors and assigns, all right, title, and interest in and to said water mains, fire hydrants, water Service Lines and appurtenances herein described, or which may hereafter be installed, to provide water and fire protection water service within the said property and to the lots platted therein. As consideration for such conveyance BOARD obligates itself to render water service through all such Facilities and to perform all maintenance and replacement requirements in perpetuity in accordance with the "Regulations" and Ordinances of the City of San Antonio; provided, however, BOARD does not guarantee continuous uninterrupted service, and DEVELOPER CUSTOMER and CONTRACTOR agree that BOARD shall not be responsible for any damages resulting from interruptions in service.

EXHIBIT A

WORKERS' COMPENSATION INSURANCE COVERAGE

- (A) Definitions: Certificate of Coverage ("certificate") A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, of a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project. Duration of the project includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity. Persons providing services on the project ("subcontractor" in §406.096) -includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a project.
- (B) The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, §401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
- (C) The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- (D) If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- (E) The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - (i) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing service on the project; and
 - (ii) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

- (F) The contractor shall retain all required certificates of coverage for the duration of the project and for three (3) years thereafter.
- (G) The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- (H) The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- (I) The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - (i) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, §401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (ii) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (iii) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (iv) obtain from each other person with whom it contracts, and provide to the contractor:
 - (I) a certificate of coverage showing extension of coverage, prior to the other person beginning work on the project; and
 - (II) a new certificate of coverage showing extension of coverage, prior to the end of coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (v) retain all required certificates of coverage on file for the duration of the project and for three (3) years thereafter;
 - (vi) notify the governmental entity in writing by certified mail or personal delivery within ten (10) days after the person knew or should have known, of any change that

materially affects the provision of coverage of any person providing services on the project; and

- (vii) contractually require each person with whom it contracts, to perform as required by clauses (i) - (vii) of this subparagraph, with the certificates of coverage to be provided to the person to whom they are providing services.
- (J) The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

EXHIBIT B

ADMINISTRATIVE AND OPERATIONAL PROCEDURES FOR CONTRACTOR BID SUSPENSION HEARINGS AND APPEALS

I. SCOPE

These Administrative and Operational Procedures for Contractor Bid Suspension Hearings and Appeals apply to all contractors awarded contracts with SAWS.

The term “contractor” as used in these Procedures means a construction contractor, subcontractor, vendor, supplier, materialman or any other person or entity supplying labor or material to SAWS on a contract basis.

"SAWS Management Officials" means SAWS personnel who are at the Manager level or above and who are involved in the supervision, review or acceptance of services, work or materials provided by contractors under contract with SAWS.

II. GENERAL PROCEDURES

A. If a SAWS Management Official determines that a particular contractor’s responsiveness, capabilities or performance under one or more SAWS contracts is unsatisfactory, the SAWS Management Official may file a complaint with the Chief Operating Officer recommending that the particular contractor be suspended from consideration for award of contracts with SAWS. A complaint may not be filed unless:

- 1) SAWS has sent the contractor at least three letters advising that the contractor is in non-compliance with a contract with SAWS, and the letters each include a warning that further defaults or breaches may lead to a suspension; or
- 2) the contractor has had a previous contract with SAWS terminated for contractor default; or
- 3) either the City of San Antonio or the State of Texas has suspended the contractor.

B. A SAWS Management Official filing a complaint will provide the Contracting Committee with any information he or she may have relating to the Reasons for Contractor Suspension as described in Section 4.9, Contractor Bid Suspension Policy of the General Conditions.

- C. SAWS will maintain the materials relating to any and all complaints filed against a particular contractor in a “complaint file” pertaining to the contractor.
- D. A contractor may be suspended if the contractor is determined by the Contracting Committee to be not sufficiently responsible to warrant consideration for award of contracts with SAWS.

III. RIGHTS AT HEARING

A hearing on a complaint will be held before a Contracting Committee which will review the evidence presented at the hearing and make a determination as to whether the contractor should be suspended. The Committee will select a chair to preside at the hearing. At the hearing, SAWS and the contractor will each have the following rights and opportunities:

- A. to be heard before an impartial committee;
- B. to be represented by an attorney or a representative of choice;
- C. to hear the witnesses and other evidence presented by the opposing party;
- D. to cross-examine adverse witnesses;
- E. to testify on one’s own behalf;
- F. to present witnesses and other evidence on one's own behalf;
- G. to have a record of the hearing made, by transcript, tape, or otherwise;
- H. to have all testimony presented under oath.

IV. COMMITTEE PROCESS

- A. The President/Chief Executive Officer of SAWS shall appoint a standing Contracting Committee comprising of SAWS staff. At least one Committee member will be a Vice President of SAWS and all other Committee members will be Managers or higher. If a standing Contracting Committee member has been involved in the day-to-day administration or supervision of a contract with a contractor being reviewed by the Committee, such Committee member will not serve on the Committee with regard to a complaint or appeal affecting that contractor. The President/CEO may either appoint a substitute or the Committee may proceed with fewer members, but in no event will there be less than three members available at any Committee meeting to hear evidence or take action on a complaint or appeal. The members of the Committee

hearing the complaint will be SAWS Management Officials not directly involved with the contractor being considered for bid suspension.

- B. When a SAWS Management Official submits a complaint to the Chief Operating Officer, the Chief Operating Officer will review the complaint to determine whether to convene the Contracting Committee to hear and act on the complaint. The Committee will be convened on a case-by-case basis.
- C. The Contracting Committee will review evidence, obtain testimony from witnesses, deliberate and vote on the matters brought before the Committee. The Committee will consider (i) all evidence in the complaint file pertaining to the contractor and any previously filed complaints and (ii) any other relevant evidence pertaining to the contractor, including evidence presented by SAWS Management Officials familiar with the contractor's performance.
- D. After considering all relevant evidence, the Contracting Committee will either:
 - 1) take no action other than sending a written warning notice by certified mail, return receipt requested, to the contractor (i) indicating that pursuant to these procedures, the Committee has received a complaint regarding the contractor, (ii) indicating that after reviewing the complaint and related evidence, the Committee has decided, at this time, to take no action regarding the contractor, and (iii) including any other information that the Committee, in its discretion, deems appropriate; or
 - 2) pursuant to these procedures, suspend the contractor from consideration for awards of contracts with SAWS.
- E. If the Contracting Committee decides to suspend the contractor, the Committee will send written notice as described in General Conditions, Section 4.9, Contractor Bid Suspension Policy, indicating the following:
 - 1) that, pursuant to these procedures, the contractor has been suspended from consideration for award of contracts with SAWS;
 - 2) in general terms, the reasons for the suspension;
 - 3) that the suspension commences upon issuance of the notice of suspension;
 - 4) the length of time and other relevant terms of the suspension as delineated in these procedures;

- 5) that bids or proposals will not be accepted or solicited from the contractor, and if they are received, they will not be opened and considered for award during the suspension period; and
- 6) the Contractor's right to appeal the suspension pursuant to these procedures.

V. PROCEDURE AT HEARING

The procedure described below will be followed in a general sense. The Contracting Committee may vary these procedures when necessary because of circumstances.

A. Copies of Exhibits

Whenever possible, the party wishing to introduce exhibits should make sufficient copies ahead of time. This will prevent interruptions and delays of the proceedings. Generally, in addition to those to be used by the party and the witness, copies will be made available to each of the Committee members, one for the official record and one for the representative of the other party.

B. Order of Presentation

- After the beginning formalities, each party will be allowed an opportunity to make a brief introductory statement.
- Initially, SAWS will present the evidence it believes warrants the suspension. As each witness is called, the contractor or the contractor's attorney/representative will have the right to cross-examine the witness after the witness has testified and before the next witness is called. The contractor or the contractor's attorney/representative may object to testimony and exhibits.
- After the presentation of SAWS' evidence, the contractor may present evidence, including his or her own testimony and that of others. As each witness is called, SAWS will have the right to cross-examine each witness after the witness has testified and before the next witness is called. A SAWS Management Official may object to testimony and exhibits.
- After the contractor has presented his/her case, SAWS may recall witnesses and present additional witnesses or evidence, again subject to cross-examination and objections. After this, the contractor may recall witnesses and present additional witnesses or evidence, also subject to cross-examination and objections.
- Each party may be allowed additional time to present further rebuttal evidence.

- After the presentation of the evidence, and before the close of the hearing, each party will have the opportunity to give a brief closing argument or summary of his/her position. The Committee may limit the time available to each of the parties depending on the amount of evidence, issues, or other circumstances the Committee deems appropriate.
- The Committee will ensure the orderly and efficient presentation of the evidence.
- The Committee will rule on any objection to testimony or other evidence.
- The Committee will have the right to prevent any threatening or abusive language or conduct and to exclude witnesses who engage in conduct that is disruptive of the proceedings.
- Stipulations (i.e., agreements between all affected parties) which expedite the proceedings are highly favored. Therefore, both SAWS and the contractor are encouraged to reach agreements regarding the admissibility of documents and the proposed testimony of witnesses. Where both SAWS and the contractor (or his/her attorney/representative) have agreed in writing or “on the record,” affidavits of absent witnesses may be introduced.
- All testimony will be under oath. The Committee chair or his/her designee will administer the oaths.
- In its discretion, the Committee may limit or exclude testimony that is superfluous or irrelevant.
- The Committee will utilize its discretion regarding the amount of time allowed for each proceeding and will have the authority to make decisions that will expedite the proceedings.
- In the Committee's discretion, Committee members may ask questions of any witness or party when they believe clarification or further information is needed.
- Unless testifying as an expert, no witness may testify unless he or she has personal knowledge regarding the issues, events, and matters relevant to the hearing.
- The Committee may exclude or limit witnesses who do not have personal knowledge regarding the issues, events, and matters relevant to the hearing.
- The Committee may take other appropriate action when the contractor fails to attend the hearing.

VI. POSTPONEMENTS

Postponements are not favored. However, where emergency circumstances are beyond the control of the contractor, the Contracting Committee will consider postponing the hearing. There will be no guarantee that a second postponement will be granted.

VII. SUSPENSIONS

- A. If the contractor has not been previously suspended pursuant to these procedures, the term of the suspension will be for one year from the date of issuance of the notice of suspension.
- B. If the contractor has been previously suspended pursuant to these procedures, the term of the suspension will be for two years from the date of issuance of the notice of suspension.
- C. After the suspension period is over, the contractor may resume submitting bids for SAWS contracts, provided, however, that initially SAWS will award no more than one contract to the suspended contractor. Only after the satisfactory completion of such contract will SAWS resume considering the award of multiple contracts to the contractor. The period of time after the suspension period is over but before SAWS will consider awarding multiple contracts to the contractor is referred to as the “post-suspension period.” The purpose of the post-suspension period is to provide SAWS an opportunity to confirm that the contractor has demonstrated a satisfactory level of responsibility to warrant the award of further SAWS contracts.
- D. Unless the Contracting Committee, in its sole discretion, decides otherwise, during the suspension period and the post-suspension period the contractor may not provide SAWS with labor or materials as a contractor or a subcontractor through another contractor. (This provision does not apply to the single contract that may be awarded to the contractor by SAWS during the post-suspension period or to any contracts or subcontracts in effect prior to the issuance of the notice of suspension.)
- E. If another contractor (“other contractor”) hires a suspended contractor to provide labor or material on a SAWS project while the contractor is suspended from SAWS work, SAWS may notify the other contractor that he or she has 30 days in which to remove the suspended contractor from the SAWS project. If the other contractor does not remove the suspended contractor from the SAWS project within 30 days, SAWS may either (i) reject the portion of the other contractor’s work performed by the suspended contractor because it was performed by a suspended contractor, or (ii) immediately terminate the other contractor’s contract for the project.

Continued use of a suspended contractor after the 30 day notice and cure period will be an event of default under any contract the other contractor has with SAWS under which the suspended contractor provides labor and/or materials.

- F. Notwithstanding the foregoing, a suspended contractor may provide equipment to SAWS as a subcontractor through another contractor, unless the Contracting Committee, in its sole discretion, decides otherwise. In addition, any contractor may hire employees of a suspended contractor as its employees and use them on a SAWS project.
- G. Unless the Contracting Committee, in its sole discretion, decides otherwise, if one or more of the former principal officers or owners of a suspended contractor forms a new business entity or joins a different business entity, or if the suspended contractor is reconstituted as or made a part of a new or different business entity by any means, the terms of the suspension will apply to the new or different business entity as if the new or different business entity were one and the same as the suspended contractor.
- H. All bids for contracts submitted to SAWS by the contractor prior to the issuance of the notice of suspension and all contracts existing between SAWS and the contractor prior to the issuance of the notice of suspension will remain valid and effective on their own accord regardless of the suspension. Notwithstanding the suspension, both SAWS and the contractor will remain obligated to perform all duties owed one another pursuant to any contracts or subcontracts in effect prior to the issuance of the notice of suspension.

VIII. APPEALS

- A. A suspended contractor may request an appeal hearing regarding the suspension, provided such request is received in writing by the Contracting Committee within 10 days after the contractor has received notice of the suspension. If no written request for an appeal hearing is received by the Committee within such 10 day period, then the decision to suspend will be final and conclusive.
- B. If an appeal hearing is requested, the Contracting Committee will schedule the appeal hearing to be held within 10 days after it receives the written request. The Committee will send the contractor written notice by certified mail, return receipt requested, of the time and place of the hearing.
- C. Both SAWS and the contractor will be allowed to request only one postponement of the appeal hearing. Any such request must be in writing and received by the other party at least five days before the originally scheduled date of the appeal hearing. In the event of a postponement, the Contracting Committee will reschedule the appeal hearing to be held within 10 days of the

date that the request for postponement was received. The Committee will send the contractor written notice by certified mail, return receipt requested, of the time and place of the rescheduled hearing.

- D. Appeal hearings will be as informal as reasonable and appropriate under the circumstances. Appeal hearings are intended to be a forum for the contractor to express to the Contracting Committee why the contractor should not be suspended and they are not to be adversarial in nature. A verbatim record is not required.
- E. The contractor may be represented by counsel at the appeal hearing.
- F. Within 10 days of the appeal hearing, the Contracting Committee will send the contractor written notice by certified mail, return receipt requested, of its final decision on the matter.
- G. If the Contracting Committee upholds the suspension, the contractor may request review of the decision by the President/Chief Executive Officer of SAWS by filing a written request for review with the President/CEO within 10 days of the date of the notice of the result of the appeal hearing. The President/CEO will review the material available from the appeal and meet with the contractor and the Committee either separately or jointly as he or she elects. The President/CEO will then send written notice of his/her decision on the suspension by certified mail, return receipt requested, to the contractor within 15 days of the date of receiving the request for review by the President/CEO.
- H. Only if the contractor has pursued both appeals and the Contracting Committee and the President/CEO have both upheld the suspension may the contractor seek further recourse by filing suit in an appropriate court of law. Any such suit must be filed within 180 days after the contractor has received notice of the President/CEO's final determination upholding the suspension. After such 180 day limitation period has elapsed, the contractor will be barred from seeking recourse in a court of law regarding the suspension. Such 180 day limitation period is necessary for SAWS to effectively administer the contracts to which it is a party. The 180 day limitation period applies only to the contractor's appeal of suspension and will not affect the obligations or rights of any party under a contract with regard to contract obligations and rights.
- I. The suspension and all other relevant provisions herein will remain in effect throughout any appeals process.
- J. For purposes of determining time periods, notices of appeal and requests for review by the President/CEO will be deemed filed when received by SAWS, and notices of decisions will be deemed given when deposited in the U.S.

Mail, certified mail, return receipt requested, addressed to the contractor at the address given on the notice of appeal or the contractor's last contract with SAWS.

Exhibit "C"

SECURITY PROCEDURES

If work to be done for SAWS will be conducted on SAWS property, involve any SAWS networks or any SAWS facility the Contractor shall ensure a Prime Contractor Data Form (PCDF) and a Background Screening Letter (provided by SAWS Security) is properly completed for all employees performing work under this Agreement and on file with the SAWS Security Office prior to work commencement. Sub-Contractors performing work must be listed on the PCDF. Contractor shall be responsible for the accuracy of information on the PCDF and for obtaining any and all required items (badges and parking tags) necessary to fulfilling the work under this Agreement. The PCDF must be sent electronically to securitygroup@saws.org. Contractor shall advise the SAWS Project Manager of any employee terminations or changes to personnel performing work under this Agreement and Contractor shall immediately turn in any and all badges and/or parking tags of employees who are terminated or no longer performing work under this Agreement. If there are any changes in the information contained in the PCDF or the Background Screening Letters, Contractor shall immediately notify the SAWS Project Manager and provide updated PCDF and Background Screening Letters, with copies to securitygroup@saws.org.

Contractor and its employees and agents shall obtain a SAWS photo identification badge (Contractor's Badge) and parking tag, if necessary, prior to any work on SAWS property, which shall be used only for purposes necessary to perform the work under this Agreement. SAWS Badge Office hours are Monday, Wednesday and Friday 8:00am to 12:00pm excluding SAWS holidays (hours are subject to change). Security Staff can be contacted at (210) 233-3760 or (210) 233-3338. A replacement fee shall be charged to replace any lost or damaged badges or parking tags. As a condition of final payment, Contractor shall return all badges and parking tags to the Security Office. In the event Contractor fails to return all security badges and parking tags, in addition to any other rights or remedies to which SAWS may be entitled at law or in equity, SAWS may withhold from payment to the Contractor the sum of \$500.00 dollars per badge or parking tag as liquidated damages. Contractor agrees that the actual amount of damages for failure to return the badges and/or parking tags are difficult to determine, and the liquidated damages herein are not a penalty, but are a reasonable estimate of the costs and expenses that may be incurred by SAWS for failure to return the badges or parking tags.

Certain designated SAWS facilities (list with SAWS Security) require a SAWS employee to physically escort Contractor at all times. SAWS may, in its sole discretion, waive the escort requirements if the PCDF and a "clean" Background Screening Letter, signed by an authorized representative of Contractor are approved by SAWS Security.

Sub-Contractors must always be under escort of the Contractor while performing work on any SAWS designated primary facility (list with SAWS Security.) Sub-Contractors must display either a company photo badge with name or a valid drivers license at all times while working on any SAWS property. Contractor is solely responsible for the actions of its employees, agents, contractors and Contractors.

Due to changing security environments, Contractor **MUST** be prepared for additional security requirements at its expense, including background checks. Any person found to have an unacceptable background check (as determined by SAWS review of submitted paperwork or other information provided to or obtained by SAWS) will not be allowed to perform work under this Agreement or on SAWS facilities. Notwithstanding anything herein to the contrary, any provisions in these Security Procedures that may appear to give SAWS the right to direct Contractor as to details of doing any work under this Agreement or to exercise a measure of control over any security measures or such work shall be deemed to mean that Contractor shall follow the desires of SAWS in the **results** of the work or security measures only.

Advance coordination by Contractor with SAWS Security office for these security requirements is necessary to ensure no delays with timely performance of the work. In the event Contractor fails to comply with SAWS Security requirements, SAWS may, with no penalty or claim against SAWS, issue a Work Stoppage Order until the security violation (s) are remedied and ask any unidentified or improperly badged Contractor to leave any SAWS site and Contractor may not return until remedied.

Request for Taxpayer Identification Number and Certification

**Give form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2	Name (as reported on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶	
	<input type="checkbox"/> Exempt from backup withholding	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number
+
or
Employer identification number
+

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here	Signature of U.S. person ▶	Date ▶
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Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes you are considered a person if you are:

- an individual who is a citizen or resident of the United States,
- a partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or

- any estate (other than a foreign estate) or trust. See Regulation section 301.7701-6(a) for additional information.

Foreign person. If you are a foreign person, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien.

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester, or
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided.

Other entities. Enter your business name as shown on required Federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

Exempt payees. Backup withholding is not required on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
2. The United States or any of its agencies or instrumentalities,
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

- 7. A foreign central bank of issue,
- 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
- 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
- 10. A real estate investment trust,
- 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
- 12. A common trust fund operated by a bank under section 584(a),
- 13. A financial institution,
- 14. A middleman known in the investment community as a nominee or custodian, or
- 15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt recipients 1 through 7 ²

¹See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a Federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form on-line at www.socialsecurity.gov/online/ss-5.pdf. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses/ and clicking on Employer ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or single-owner LLC	The owner ³
For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner ³
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, or to Federal and state agencies to enforce Federal nontax criminal laws and to combat terrorism. The authority to disclose information to combat terrorism expired on December 31, 2003. Legislation is pending that would reinstate this authority.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

**Instructions for Completing the ACORD
Certificate of Liability Insurance**
(Form – ACORD 25 [2001/08] updated)

1. **DATE (MM/DD/YYYY)** – this is the date the Certificate is generated;

2. **PRODUCER** – insert the complete name and address of the insurance agency or broker issuing this Certificate; Contact person’s office phone, Fax number and email address.

3. **INSURED** – enter the complete legal name and address of the Consulting Firm, the Contractor’s Company or the Supplier’s Company (to include any dba used);

4. INSURERS AFFORDING COVERAGE

- a. **INSURER A** through **E** – enter the insurance carrier’s complete Operating Company name; **or**
- b. **NAIC #** - enter National Association of Insurance Commissioners (5 – digit) insurance carrier ID number.

NOTE:

If the name of the Insurer used cannot be located in the A.M. Best Directory, then the NAIC # will be required.

5. COVERAGES

- a. **INSURER Letter (INSR/LTR)** column - place the corresponding letter of the insurance carrier affording coverage by each respective type of insurance coverage;

- b. **ADDITIONAL INSURED (ADD’L INSURD)** column

This column is provided to indicate by a check mark or an “X” as to whether a line of insurance coverage listed on the Certificate is endorsed with the Additional Insured endorsement (except for Workers’ Compensation/Employer’s Liability).

The use of this column **alone** does not constitute compliance with SAWS Insurance Specifications.

SAWS requires the following specific endorsement wording for the Additional Insured endorsement, to be inserted into the **DESCRIPTION OF OPERATIONS** section of the Certificate:

**Instructions for Completing the ACORD
Certificate of Liability Insurance
(Form – ACORD 25 [2001/08] updated)**

Additional Insured – “The Automobile Liability, Commercial General Liability and Umbrella Liability policies are endorsed naming the San Antonio Water System and the City of San Antonio as an Additional Insured.”

c. **TYPE OF INSURANCE:**

1) **GENERAL LIABILITY:**

a) **COMMERCIAL GENERAL LIABILITY** – place an “X” in the space provided;

b) **OCCUR** (Occurrence based form) - place an “X” in the space provided;

c) **GEN’L AGGREGATE LIMIT APPLIES PER:**

- For *Construction Contracts* - place an “X” in the box right in front of the word **PROJECT**; or
- For all *Other Contracts* - an “X” in the box right in front of either the word **POLICY** or **LOCATION** is acceptable.

d) Enter complete **POLICY NUMBER, POLICY EFFECTIVE DATE** (MM/DD/YYYY), and **POLICY EXPIRATION DATE** (MM/DD/YYYY);

e) The minimum policy **LIMITS** for the Commercial General Liability coverage are as follows:

\$ 1,000,000.00	Occurrence Limit
2,000,000.00	General Aggregate
1,000,000.00	Products/Completed Operations Aggregate (See NOTE below)
1,000,000.00	Personal and Advertising Injury

NOTE:

The above limits for Products/Completed Operations Aggregate for all Construction Contracts is \$2 million.

2) **AUTOMOBILE LIABILITY:**

a) Place an “X” in the box in front of each appropriate auto category for which coverage applies.

b) Enter complete **POLICY NUMBER, POLICY EFFECTIVE DATE** (MM/DD/YYYY), and **POLICY EXPIRATION DATE** (MM/DD/YYYY).

**Instructions for Completing the ACORD
Certificate of Liability Insurance
(Form – ACORD 25 [2001/08] updated)**

- c) The typical minimum limits of liability for bodily injury and property damage **combined** for this line of insurance coverage shall be not less than \$1,000,000.00 each accident.

NOTE:

If the Contractor's Pollution Liability policy is required and the Contractor's Pollution Liability policy **is not endorsed** to provide transportation coverage beyond the boundaries of the job site the Commercial/Business Automobile Liability policy must have the CA9948 endorsement (**Pollution Liability – Broadened Coverage for Covered Autos – Business Auto, Motor Carrier and Truckers Coverage forms**) - the following statement noting this endorsement shall be placed either in the blank area just below the NON-OWNED AUTOS wording on the Certificate **or** in the **DESCRIPTION OF OPERATIONS** section of the Certificate:

“Contractor’s Commercial/Business Automobile Liability insurance coverage is endorsed with the CA9948 endorsement to provide transportation coverage beyond the boundaries of the job site.”

Policy must also be endorsed with MCS90 endorsement when hazardous material(s) are being transported.

- 3) **GARAGE LIABILITY** - not applicable.
- 4) **EXCESS/UMBRELLA LIABILITY** **(where applicable):**
- a) SAWS prefers having an “X” in the box right in front of the word **OCCUR**;
- b) In the blank space provided underneath the **OCCUR** and **CLAIMS MADE** boxes or at another location more convenient on the Certificate, insert the name of the coverage form under which this Liability Policy is written; either:
- Umbrella form; or
 - Other than Umbrella form.
- c) Enter complete **POLICY NUMBER, POLICY EFFECTIVE DATE** (MM/DD/YYYY), and **POLICY EXPIRATION DATE** (MM/DD/YYYY).
- d) The **minimum limits*** of liability for this line of insurance coverage shall be:
- \$ 2,000,000.00 Occurrence Limit

**Instructions for Completing the ACORD
Certificate of Liability Insurance
(Form – ACORD 25 [2001/08] updated)**

2,000,000.00 General Aggregate

*The above limits may vary from \$5 million to \$50 million depending on the degree of and potential for greater liability exposure to SAWS. Check the General Conditions – Special Conditions section of the Bid document for the increased coverage limits.

5) **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY:**

- a) Answer the Question: ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below.
- b) Enter complete **POLICY NUMBER, POLICY EFFECTIVE DATE** (MM/DD/YYYY), and **POLICY EXPIRATION DATE** (MM/DD/YYYY).
- c) **WORKERS' COMPENSATION ("WC"):**

SAWS requires having an "X" entered in the box right in front of the words **WC STATUTORY LIMITS**.

- d) **EMPLOYERS' LIABILITY ("E.L."):**

The minimum policy limits of liability shall not be less than:

\$ 1,000,000.00	E.L. each Accident
1,000,000.00	E.L. Disease - Each Employee
1,000,000.00	E.L. Disease - Policy Limit

6) **OTHER:**

- a) This empty slot of spaces is typically used for such lines of coverage as PROFESSIONAL (Engineer's & Architect's E&O) LIABILITY, CONTRACTOR'S POLLUTION LIABILITY, COMMERCIAL CRIME and/or BUILDER'S RISK lines of insurance coverage.
- b) Enter complete **POLICY NUMBER, POLICY EFFECTIVE DATE** (MM/DD/YYYY), and **POLICY EXPIRATION DATE** (MM/DD/YYYY).
- c) The minimum limits (the per occurrence/claims-reported limit as well as the policy aggregate limit) for whichever TYPE OF INSURANCE coverage you are declaring in this OTHER space must match with or exceed limits stated in the Insurance Specifications/Requirements contained in the respective Construction Bid, RFP or RFQ document.

**Instructions for Completing the ACORD
Certificate of Liability Insurance**
(Form – ACORD 25 [2001/08] updated)

NOTE:

1. If the line of insurance coverage is either for Professional Liability or Contractor's Pollution Liability, identify in the **DESCRIPTION OF OPERATIONS** section of the Certificate the coverage form under which the respective line of coverage is written – either:
 - a. Claims-made form; **or**
 - b. Occurrence basis.
2. In instances where the coverage form used is Claims-made include the "Retro-Active date" according to the following:
 - a. For all contracts requiring Professional Liability and/or Contractor's Pollution Liability coverage, the "**Retro-Active date**" shall be the Project start date or earlier and must be identified in the **DESCRIPTION OF OPERATIONS** section of the Certificate.
 - b. That date must be maintained (carried forward) as the "**Retro-Active date**" throughout the life of the Project/Contract to include the two-year warranty period (if required) following the close out of the Project/Contract.
3. If the Occurrence based coverage form is declared, no further information is required; and
4. If the Contractor's Pollution Liability insurance coverage is required, the policy shall be endorsed to provide transportation coverage beyond the boundaries of the job site – the following statement noting this endorsement shall be placed in the **DESCRIPTION OF OPERATIONS** section of the Certificate;

"Contractor's Pollution Liability insurance coverage is endorsed to provide transportation coverage beyond the boundaries of the job site."

If the Contractor's Pollution Liability policy **is not endorsed** to provide transportation coverage beyond the boundaries of the job site then the Commercial/Business Automobile Liability policy must have the CA9948 endorsement ("**Pollution Liability – Broadened Coverage for Covered Autos – Business Auto, Motor Carrier and Truckers Coverage**" forms) - the following statement noting this endorsement shall be placed either in the blank area just below the NON-OWNED AUTOS wording on the Certificate **or** in the **DESCRIPTION OF OPERATIONS** section of the Certificate:

**Instructions for Completing the ACORD
Certificate of Liability Insurance
(Form – ACORD 25 [2001/08] updated)**

“Contractor’s Commercial/Business Automobile Liability insurance coverage is endorsed with the CA9948 endorsement to provide transportation coverage beyond the boundaries of the job site.”

Policy must also be endorsed with MCS90 endorsement when hazardous material(s) are being transported.

6. DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

a. DESCRIPTION OF OPERATIONS:

- 1) Enter in this space the SAWS’ Job, Contract and/or Project number such as 09-1111 **or** P-09-011-MR;
- 2) The Project or Contract name may be included but is not required - such as “42” Water Main replacement Maltsberger from Loop 410 to U.S. 281 at Isom Road Engineering Design Project **or** Construct 1 MG Composite Potable Water Elevated Storage Tank.

b. Where applicable or as needed, enter into this section, the DESCRIPTIONS of LOCATIONS, VEHICLES and/or EXCLUSIONS ADDED BY ENDORSEMENT.

c. DESCRIPTION OF SPECIAL PROVISIONS:

SPECIAL PROVISIONS to SAWS would include the wording for the Additional Insured and Waiver of Subrogation endorsements, declaring the type of policy coverage under which the Umbrella/Excess, Professional and Contractor’s Pollution Liability policies are written, and other miscellaneous information that may be required; the wording may require a second page to complete.

Special ENDORSEMENT’s wording required on the Certificate:

Additional Insured – “The Automobile Liability, Commercial General Liability and Umbrella Liability policies are endorsed naming the San Antonio Water System and the City of San Antonio as an Additional Insured.”

Waiver of Subrogation – “The Automobile Liability, Commercial General Liability, Workers’ Compensation and Umbrella Liability policies are endorsed with the Waiver of Subrogation in favor of the San Antonio Water System and the City of San Antonio.”

7. CERTIFICATE HOLDER

**Instructions for Completing the ACORD
Certificate of Liability Insurance
(Form – ACORD 25 [2001/08] updated)**

SAWS shall be shown as the Certificate Holder in the Certificate Holder section located in the bottom half of the standard ACORD Certificate forms as follows:

**San Antonio Water System
c/o Ebix BPO
PO Box 257
Ref. # 107- (SAWS Contract/Bid/Project #)
Portland, MI 48875-0257**

8. CANCELLATION

Each line of insurance coverage that is shown on this Certificate shall be so written so as to provide SAWS and the City thirty (30) calendar days advance written notice directly of any suspension, cancellation or non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

9. AUTHORIZED REPRESENTATIVE

The original certificate(s) or form must include at least one of the below acceptable names/signatures:

- a. Agency's Authorized person's (wet or stamped) signature;
- b. Agent's (wet or stamped) signature; or
- c. Agent's typed in name.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

PRODUCER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED	INSURER A:	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	<input type="checkbox"/>	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> _____ <input type="checkbox"/> _____ GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURENCE	\$
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
						MED EXP (Any one person)	\$
						PERSONAL & ADV INJURY	\$
						GENERAL AGGREGATE	\$
						PRODUCTS - COMP/OP AGG	\$
							\$
	<input type="checkbox"/>	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> _____ <input type="checkbox"/> _____				COMBINED SINGLE LIMIT (Each Occurrence)	\$
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/>	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> _____				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN EA ACC	\$
						AUTO ONLY: AGG	\$
	<input type="checkbox"/>	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$ _____				EACH OCCURENCE	\$
						AGGREGATE	\$
							\$
							\$
							\$
	<input type="checkbox"/>	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT	\$
						E.L. DISEASE - EA EMPLOYEE	\$
						E.L. DISEASE - POLICY LIMIT	\$
	<input type="checkbox"/>	OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER	CANCELLATION
	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURER AFFORDING COVERAGE WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

**Instructions for Completing the ACORD
Certificate of Liability Insurance
(Form – ACORD 25 [Versions: 2009/09 & 2010/05])**

1. **DATE (MM/DD/YYYY)** – this is the date the Certificate is generated;

2. **PRODUCER** – insert the complete name and address of the insurance agency or broker issuing this Certificate; in the adjacent cell (located just to the right of the PRODUCER cell) include CONTACT PERSON's name, office phone, Fax number(s) and e-mail address.

3. **INSURED** – enter the complete legal name and address of the Consulting Firm, the Contractor's Company or the Supplier's Company (to include any dba used);

4. INSURERS AFFORDING COVERAGE

- a. **INSURER A through E** – enter the insurance carrier's complete Operating Company name; **or**
- b. **NAIC #** - enter National Association of Insurance Commissioners (5 – digit) insurance carrier ID number.

NOTE:

If the name of the Insurer used cannot be located in the A.M. Best Directory, then the NAIC # will be required.

5. CERTIFICATE NUMBER/REVISION NUMBER

These two data fields, if utilized by the insurance agency or insurance broker, could be used as a quick reference number; SAWS does not require this to be used.

6. COVERAGES

- a. **INSURER Letter (INSR/LTR)** column - place the corresponding letter of the insurance carrier affording coverage by each respective type of insurance coverage;

- b. **TYPE OF INSURANCE:**
 - 1) **GENERAL LIABILITY:**
 - a) **COMMERCIAL GENERAL LIABILITY** – place an “X” in the space provided;
 - b) **OCCUR** (Occurrence based form) - place an “X” in the space provided;

**Instructions for Completing the ACORD
Certificate of Liability Insurance
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c) **GEN’L AGGREGATE LIMIT APPLIES PER:**

- For *Construction Contracts* - place an “X” in the box right in front of the word **PROJECT**; or
- For all *Other Contracts* - an “X” in the box right in front of either the word **POLICY** or **LOCATION** is acceptable.

d) **ADDL INSR and SUBR WVD** columns:

The two columns labeled **ADDL INSR** and **SUBR WVD** are provided to indicate by a check mark or an “X” whether this line of insurance coverage is endorsed with both the Additional Insured and the Waiver of Subrogation.

The use of these two columns **alone** does not meet SAWS Insurance Specifications.

SAWS requires the following specific endorsement wording for the Additional Insured and Waiver of Subrogation endorsements, to be inserted into the **DESCRIPTION OF OPERATIONS** section of the Certificate:

Additional Insured – “The Automobile Liability, **Commercial General Liability** and Umbrella Liability policies are endorsed naming the San Antonio Water System and the City of San Antonio as an Additional Insured.”

Waiver of Subrogation – “The Automobile Liability, **Commercial General Liability**, Workers’ Compensation and Umbrella Liability policies are endorsed with the Waiver of Subrogation in favor of the San Antonio Water System and the City of San Antonio.”

e) Enter complete **POLICY NUMBER, POLICY EFFECTIVE DATE** (MM/DD/YYYY), and **POLICY EXPIRATION DATE** (MM/DD/YYYY);

f) The minimum policy **LIMITS** for the Commercial General Liability coverage are as follows:

\$ 1,000,000.00	Occurrence Limit
2,000,000.00	General Aggregate
1,000,000.00	Products/Completed Operations Aggregate (See NOTE below)
1,000,000.00	Personal and Advertising Injury

NOTE:

The above limits for Products/Completed Operations Aggregate for all Construction Contracts is \$2 million.

**Instructions for Completing the ACORD
Certificate of Liability Insurance
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2) **AUTOMOBILE LIABILITY:**

a) Place an “X” in the box in front of each appropriate auto category for which coverage applies.

b) **ADDL INSR and SUBR WVD** columns:

The two columns labeled **ADDL INSR** and **SUBR WVD** are provided to indicate by a check mark or an “X” whether this line of insurance coverage is endorsed with both the Additional Insured and the Waiver of Subrogation.

The use of these two columns **alone** does not meet SAWS Insurance Specifications.

SAWS requires the following specific endorsement wording for the Additional Insured and Waiver of Subrogation endorsements, to be inserted into the **DESCRIPTION OF OPERATIONS** section of the Certificate:

Additional Insured – “The **Automobile Liability**, Commercial General Liability and Umbrella Liability policies are endorsed naming the San Antonio Water System and the City of San Antonio as an Additional Insured.”

Waiver of Subrogation – “The **Automobile Liability**, Commercial General Liability, Workers’ Compensation and Umbrella Liability policies are endorsed with the Waiver of Subrogation in favor of the San Antonio Water System and the City of San Antonio.”

c) Enter complete **POLICY NUMBER, POLICY EFFECTIVE DATE** (MM/DD/YYYY), and **POLICY EXPIRATION DATE** (MM/DD/YYYY).

d) The typical minimum limits of liability for bodily injury and property damage **combined** for this line of insurance coverage shall be not less than \$1,000,000.00 each accident.

NOTE:

If the Contractor’s Pollution Liability policy is required and the Contractor’s Pollution Liability policy is **not endorsed** to provide transportation coverage beyond the boundaries of the job site the Commercial/Business Automobile Liability policy must have the CA9948 endorsement (“**Pollution Liability – Broadened Coverage for Covered Autos – Business Auto, Motor Carrier and Truckers Coverage**” forms) - the following statement noting this endorsement shall be placed either in the blank area just below the NON_OWNED AUTOS wording on the Certificate **or** in the **DESCRIPTION OF OPERATIONS** section of the Certificate:

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“Contractor’s Commercial/Business Automobile Liability insurance coverage is endorsed with the CA9948 endorsement to provide transportation coverage beyond the boundaries of the job site.”

Policy must also be endorsed with MCS90 endorsement when hazardous material(s) are being transported.

3) **EXCESS/UMBRELLA LIABILITY** (where applicable):

- a) Coverage form used - place an “X” in the appropriate box that identifies the coverage form under which this Policy is written: **UMBRELLA LIAB** or **EXCESS LIAB**; and
- b) Occurrence or Claims-Made basis - SAWS requires an “X” be placed in the box right in front of the word **OCCUR**;
- c) **ADDL INSR and SUBR WVD** columns:

The two columns labeled **ADDL INSR** and **SUBR WVD** are provided to indicate by a check mark or an “X” whether this line of insurance coverage is endorsed with both the Additional Insured and the Waiver of Subrogation.

The use of these two columns **alone** does not meet SAWS Insurance Specifications.

SAWS requires the following specific endorsement wording for the Additional Insured and Waiver of Subrogation endorsements, to be inserted into the **DESCRIPTION OF OPERATIONS** section of the Certificate:

Additional Insured – “The Automobile Liability, Commercial General Liability and **Umbrella Liability** policies are endorsed naming the San Antonio Water System and the City of San Antonio as an Additional Insured.”

Waiver of Subrogation – “The Automobile Liability, Commercial General Liability, Workers’ Compensation and **Umbrella Liability** policies are endorsed with the Waiver of Subrogation in favor of the San Antonio Water System and the City of San Antonio.”

- d) Enter complete **POLICY NUMBER, POLICY EFFECTIVE DATE** (MM/DD/YYYY), and **POLICY EXPIRATION DATE** (MM/DD/YYYY).
- e) The minimum limits* of liability for this line of insurance coverage shall be:

<u>\$ 2,000,000.00</u>	<u>Occurrence Limit</u>
<u>2,000,000.00</u>	<u>General Aggregate</u>

**Instructions for Completing the ACORD
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*The above limits may vary from \$5 million to \$50 million depending on the degree of and potential for greater liability exposure to SAWS. Check the General Conditions – Special Conditions section of the Bid document for the increased coverage limits.

4) **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY:**

a) Answer the Question: ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below.

b) **ADDL INSR and SUBR WVD** columns:

The two columns labeled **ADDL INSR** and **SUBR WVD** are provided to indicate by a check mark or an "X" whether this line of insurance coverage is endorsed with both the Additional Insured (which is not required by SAWS) and the Waiver of Subrogation. With this line of coverage "N/A" is already placed in the Additional Insured column on the form.

The use of the Waiver of Subrogation column **alone** does not meet SAWS Insurance Specifications.

SAWS requires the following specific endorsement wording for only the Waiver of Subrogation endorsement, to be inserted into the **DESCRIPTION OF OPERATIONS** section of the Certificate:

Waiver of Subrogation – "The Automobile Liability, Commercial General Liability, **Workers' Compensation** and Umbrella Liability policies are endorsed with the Waiver of Subrogation in favor of the San Antonio Water System and the City of San Antonio."

c) Enter complete **POLICY NUMBER, POLICY EFFECTIVE DATE** (MM/DD/YYYY), and **POLICY EXPIRATION DATE** (MM/DD/YYYY).

d) **WORKERS' COMPENSATION ("WC"):**

SAWS requires having an "X" entered in the box right in front of the words **WC STATUTORY LIMITS**.

d) **EMPLOYERS' LIABILITY ("E.L."):**

The minimum policy limits of liability shall not be less than:

\$ 1,000,000.00	E.L. each Accident
1,000,000.00	E.L. Disease - Each Employee
1,000,000.00	E.L. Disease - Policy Limit

**Instructions for Completing the ACORD
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- 5) **Row of blank cells** located immediately below the **WORKERS COMPENSATION AND EMPLOYERS’ LIABILITY** row:
- a) This empty slot of spaces is typically used for such lines of coverage as PROFESSIONAL (Engineer’s & Architect’s E&O) LIABILITY, CONTRACTOR’S POLLUTION LIABILITY, COMMERCIAL CRIME and/or BUILDER’S RISK lines of insurance coverage.
 - b) **ADDL INSR and SUBR WVD** columns:

The two columns labeled **ADDL INSR** and **SUBR WVD** are provided to indicate by a check mark or an “X” whether this line of insurance coverage is endorsed with both the Additional Insured and the Waiver of Subrogation.

Since SAWS does not require the PROFESSIONAL (Engineer’s & Architect’s E&O) LIABILITY, CONTRACTOR’S POLLUTION LIABILITY, COMMERCIAL CRIME and/or BUILDER’S RISK lines of insurance coverage to be endorsed with either of the Additional Insured or the Waiver of Subrogation endorsements, do not place anything in either of the **ADDL INSR or SUBR WVD** columns.
 - c) Enter complete **POLICY NUMBER, POLICY EFFECTIVE DATE** (MM/DD/YYYY), and **POLICY EXPIRATION DATE** (MM/DD/YYYY).
 - d) The minimum limits (the per occurrence/claims-reported limit as well as the policy aggregate limit) for whichever TYPE OF INSURANCE coverage you are declaring in this OTHER space must match with or exceed limits stated in the Insurance Specifications/Requirements contained in the respective Construction Bid, RFP or RFQ document.

NOTE:

- 1. If the line of insurance coverage is either for Professional Liability or Contractor’s Pollution Liability, identify in the **DESCRIPTION OF OPERATIONS** section of the Certificate the coverage form under which the respective line of coverage is written – either:
 - a. Claims-made form; **or**
 - b. Occurrence basis.
- 2. In instances where the coverage form used is Claims-made include the “Retro-Active date” according to the following:

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- a. For all contracts requiring Professional Liability and/or Contractor’s Pollution Liability coverage, the “**Retro-Active date**” shall be the Project start date or earlier and must be identified in the **DESCRIPTION OF OPERATIONS** section of the Certificate.
 - b. That date must be maintained (carried forward) as the “**Retro-Active date**” throughout the life of the Project/Contract to include the two-year warranty period (if required) following the close out of the Project/Contract.
3. If the Occurrence based coverage form is declared, no further information is required; and
 4. If the Contractor’s Pollution Liability insurance coverage is required, the policy shall be endorsed to provide transportation coverage beyond the boundaries of the job site – the following statement noting this endorsement shall be placed in the **DESCRIPTION OF OPERATIONS** section of the Certificate;

“Contractor’s Pollution Liability insurance coverage is endorsed to provide transportation coverage beyond the boundaries of the job site.”

If the Contractor’s Pollution Liability policy is **not endorsed** to provide transportation coverage beyond the boundaries of the job site then the Commercial/Business Automobile Liability policy must have the CA9948 endorsement (“**Pollution Liability – Broadened Coverage for Covered Autos – Business Auto, Motor Carrier and Truckers Coverage**” forms) - the following statement noting this endorsement shall be placed either in the blank area just below the NON_OWNED AUTOS wording on the Certificate **or** in the **DESCRIPTION OF OPERATIONS** section of the Certificate:

“Contractor’s Commercial/Business Automobile Liability insurance coverage is endorsed with the CA9948 endorsement to provide transportation coverage beyond the boundaries of the job site.”

Policy must also be endorsed with MCS90 endorsement when hazardous material(s) are being transported.

**7. DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS
ADDED BY ENDORSEMENT/SPECIAL PROVISIONS**

a. DESCRIPTION OF OPERATIONS:

- 1) Enter in this space the SAWS’ Job, Contract and/or Project number such as 09-1111 **or** P-09-011-MR;

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- 2) The Project or Contract name may be included but is not required - such as “42” Water Main replacement Maltsberger from Loop 410 to U.S. 281 at Isom Road Engineering Design Project **or** Construct 1 MG Composite Potable Water Elevated Storage Tank.
- b. Where applicable or as needed, enter into this section, the **DESCRIPTIONS of LOCATIONS, VEHICLES and/or EXCLUSIONS ADDED BY ENDORSEMENT.**
- c. **DESCRIPTION OF SPECIAL PROVISIONS:**

SPECIAL PROVISIONS to SAWS would include the wording for the Additional Insured and Waiver of Subrogation endorsements, declaring the type of policy coverage under which the Professional and Contractor’s Pollution Liability policies are written, 30-day Notice of Cancellation, and other miscellaneous information that may be required; the wording may require a second page to complete.

Special ENDORSEMENT’s wording required on the Certificate:

Additional Insured – “The Automobile Liability, Commercial General Liability and Umbrella Liability policies are endorsed naming the San Antonio Water System and the City of San Antonio as an Additional Insured.”

Waiver of Subrogation – “The Automobile Liability, Commercial General Liability, Workers’ Compensation and Umbrella Liability policies are endorsed with the Waiver of Subrogation in favor of the San Antonio Water System and the City of San Antonio.”

30-day Notice of Cancellation – “Each of the above described policies is so endorsed requiring SAWS and the City of San Antonio to be provided thirty (30) calendar days, advance written notice of any suspension, cancellation or non-renewal, and not less than ten (10) calendar days advance written notice for nonpayment of premium.”

8. CERTIFICATE HOLDER

SAWS shall be shown as the Certificate Holder in the Certificate Holder section located in the bottom half of the standard ACORD Certificate forms as follows:

**San Antonio Water System
c/o Ebix BPO
PO Box 257
Ref. # 107- (SAWS Contract/Bid/Project #)
Portland, MI 48875-0257**

**Instructions for Completing the ACORD
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9. CANCELLATION

Despite the wording in this section of the Certificate SAWS requires the following wording to be inserted into the **DESCRIPTION OF OPERATIONS** section of the Certificate:

30-day Notice of Cancellation – “Each of the above described policies is so endorsed requiring SAWS and the City of San Antonio to be provided thirty (30) calendar days, advance written notice of any suspension, cancellation or non-renewal, and not less than ten (10) calendar days advance written notice for nonpayment of premium.”

10. AUTHORIZED REPRESENTATIVE

The original certificate(s) or form must include at least one of the below acceptable names/signatures:

- a. Agency’s Authorized person’s (wet or stamped) signature;
- b. Agent's (wet or stamped) signature; or
- c. Agent's typed in name.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No. Ext):	FAX (A/C, No):
INSURED	E-MAIL ADDRESS:	
	PRODUCER CUSTOMER ID #:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A :	
	INSURER B :	
INSURER C :		
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY						EACH OCCURRENCE	\$
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						MED EXP (Any one person)	\$
	<input type="checkbox"/> _____						PERSONAL & ADV INJURY	\$
	<input type="checkbox"/> _____						GENERAL AGGREGATE	\$
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	\$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC							\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS							\$
	<input type="checkbox"/> NON-OWNED AUTOS							\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR						EACH OCCURRENCE	\$
	EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE							\$
	<input type="checkbox"/> RETENTION \$							\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input type="checkbox"/> WC STATUTORY LIMITS	<input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y / <input type="checkbox"/> N	<input type="checkbox"/> N / <input type="checkbox"/> A				E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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SPECIAL CONDITIONS

- SC-1.0 Acceptable pipe materials for this project are as follows: Ductile Iron (DI), PVC, Steel and Concrete Steel Cylinder (CSC). All pipe, fittings, gaskets and associated materials shall conform to SAWS material specifications, latest edition. Material specifications may be accessed at www.saws.com.
- SC-2.0 This project is located in a SAWS high-pressure zone; therefore all piping shall be minimum Class 200 per SAWS, Design Standards For Water Systems Facilities, Section 9.9.
- SC-3.0 Pipe Installation. The Contractor shall perform all work necessary for the proper installation and functioning of the various types and sizes of pipe and equipment at the locations and within the limits shown on the plans. All Pipe fittings and associated gaskets, flanges and bolt sets necessary for installation of the proposed pipe will not be paid for separately, but shall be considered incidental to the pipe installation and paid for as a part of the unit price bid for pipe.
- SC-4.0 Restrained joints shall be used in lieu of concrete thrust blocking. Concrete blocking may be used in addition to restrained joints where specifically called for in the plans. Joint restraint systems will not be paid for separately, but shall be considered incidental to the pipe installation and paid for as a part of the unit price bid for pipe.
- SC-5.0 Water main joint restraint lengths shown on the plans were developed with EBBA Iron Restraint length calculator, version 6.0, using the following factors: Ductile Iron pipe with polywrap, soil type CH (inorganic clay with granular backfill), safety factor of 1.5 to 1, trench type 5, trench depth of 4' for pipe 16" and smaller and 5' for pipe larger than 16" and a test pressure of 200 psi. If a pipe material other than ductile iron is selected, the contractor shall be responsible for providing revised joint restraint length calculations, designed by the pipe supplier, signed and sealed by a Texas Licensed Professional Engineer and submitted for review.
- SC-6.0 Geotechnical. Item 5.18 of the General Conditions, Subsurface Conditions. No geotechnical investigation or exploration and tests of the subsurface conditions at the construction site were performed by the Owner. The subsurface materials along the project area are considered unclassified.
- SC-7.0 Use of explosives. Replace section 5.24 of the General Conditions with the following: The use of explosives of any kind for this project is strictly prohibited.
- SC-8.0 References to Standard Specifications and Drawings. References to standard drawings, details and specifications not included in these documents may be found, but are not limited to, the following locations:

<http://www.dot.state.tx.us/business/specifications.htm>
http://www.saws.org/business_center/
<http://www.ci.sat.tx.us>
<http://www.tceq.state.tx.us/rules/index.html>
- SC-9.0 The Contractor is responsible for performing quality control inspection and testing to assure compliance with all Contract Documents. All observation/inspection of the work, quality assurance testing performed by the Owner or by Owner's Consultant and/or Engineer is for the sole benefit of Owner and Contractor agrees not to rely thereon for any reason.

- SC-10.0 Butterfly valves, if called for, shall be flanged and shall be Pressure Class 250 with Pressure Class 150 Flange drillings (bolt patterns).
- SC-11.0 All butterfly valve flanges shall conform to the standard specifications of the American National Standards Institute (ANSI), Class 250 unless otherwise listed.
- SC-12.0 Bid Item 316 (TxDOT) – Surface Treatment: The work for this bid item shall consist of a two course chip sealing surface treatment covering the existing width of Borgfeld Road, from edge of pavement to edge of pavement. Surface treatment shall extend for the full length of the proposed water main, from station 10+00 to 83+90. Work shall be in accordance with the latest version of the Texas Department of Transportation Standard Specifications for Construction of Highways, Streets and Bridges, including, but not limited to Item 316. The unit cost for this bid item shall include the replacement of pavement striping, markings and reflectors per Bexar County requirements. All pavement striping and marking materials and construction shall be in accordance with the Texas Department of Transportation Standard Specifications for Construction of Highways, Streets and Bridges, including, but not limited to Items 660, 672, 677 and 678.
- SC-13.0 Excluding the Two Course Chip Seal Surface indicated on the plans and as bid item number 316, any required repair of the existing roadway surface and/or shoulders damaged in any way as a result of construction activities shall be considered incidental to construction and a no separate pay item.
- SC-14.0 Tree removal, whether tree stumps, individual trees or heavily wooded areas (consisting of multiple trees and associated understory within a concentrated area), shall be considered as incidental to the Preparation of Right-of-Way and a no additional pay item. Contractor shall remove only those trees necessary to install the proposed water main; protective fencing per the tree protection fencing detail shall be installed around all other trees 24-inches and larger that are within the Right-of-Way and within 20-feet from the project work.
- SC-15.0 During the preparation of Right-of-Way phase, the Contractor may remove existing fences located within the county right-of-way, if necessary, for installation of the proposed water main. Contractor shall notify the property owner at least three days in advance before removing any fence. Contractor shall, if necessary, install a temporary 3-wire, T-post fence along the property, at the limits of the right-of-way, to assist in livestock containment. Removal of the existing fence and installation of any temporary fencing will be considered incidental to the preparation of Right-of-Way and a no separate pay item.
- SC-16.0 Areas disturbed during construction shall be cleaned, dressed and revegetated after construction has been completed. In areas of established sod, such as landscaped areas, sodding per CoSA specification Items 515 and 516 shall be used to revegetate the area. Replacement sod shall be of the same type as that of the existing sod in the disturbed area. Landscaped areas and planters shall be replaced with flora of like kind, including the replacement of any timbers, edge stripping, rock walls and/or other support structures in like kind to as good or better condition than existing. All other areas disturbed by construction shall be revegetated using hydroseeding, CoSA specification Items 515 and 520. Irrigation facilities disturbed or damaged during the construction process shall be replaced, including any pipe, valves, control valves, wiring, sprinkler heads, and all other associated appurtenances to as good or better than existing. All the items described in this paragraph shall be included in, and subsidiary to, and paid for as part of the Revegetation Bid Item.

- SC-17.0 Due to the restricted working space within the right-of-way, temporary off-site storage of equipment and materials may be necessary, including trench materials and excavated spoils. Contractor shall include in his bid price all costs associated with the hauling and off-site storage of all materials and/or equipment, no separate bid item.
- SC-18.0 If steel pipe is used for the project cathodic protection will be required. The design and installation of cathodic protection must be provided by the contractor and shall be included as an incidental cost with the price of the water main (Item No 812). The system shall be designed by a Professional Engineer licensed in the State of Texas. The cathodic protection must meet NACE minimum standards and at a minimum must include jump wires at pipe joints, magnesium anodes and testing stations. The system shall be designed to have a minimum 20-year life. SAWS Inspection Department must approve design of the cathodic protection before installation. At no cost to the Owner, an approved third party test technician shall be responsible for visiting the site during installation of the cathodic protection system to ensure compliance with proper installation procedures and for observation and testing services. Technician shall provide written observation reports for each visit and copies of all test reports to the Owner.
- SC-19.0 The proposed water main along Borgfeld Road is generally shown as 10-feet off the Right-of-Way with a proposed gas main (by others) to be 5-feet off the Right-of-Way. It is a possibility that the gas main may be installed or under construction at the time this water main project begins construction. The Contractor will have to take this into consideration when planning their construction schedule as no delay of project claims or remobilization will be allowed if the gas main construction is underway in the Right-of-Way during the time of this project.
- SC-20.0 Water Availability – All water required for the Project will be at the Contractor's expense. SAWS job number 07-3008 may not be complete at the time the contractor requires water for this project, therefore the Contractor shall determine the water system Owner for any source Contractor wishes to use. Contractor shall provide Owner with a copy of all agreements made to supply water from water sources other than the Owner. There is no separate pay item for the cost of any equipment, materials, connections, piping, backflow preventers, fittings, pumping, loading, hauling, unloading, permits, meters, disconnection, draining, disposal, labor, accessories, transporting, phasing, mobilizations or remobilizations or any other costs associated with providing water for the project testing or other purposes.
- SC-21.0 The Contractor is responsible for securing all necessary permits and shall be considered incidental to construction and not paid for separately.
- SC-22.0 Submission of a Bid shall constitute that the Contractor will use equipment that is appropriately sized for the scope of work presented in the Contract Documents and that the Contractor can successfully perform the work within the limits of the construction area (easements and right-of-way.) while following the proposed water main alignment without damaging those facilities shown or called for on the plans to be protected from damage or removal and without damage to property and facilities outside the right-of-way or easements.
- SC-23.0 All miscellaneous structures, including, but not limited to mailboxes, address structures, driveway reflectors and signs removed or damaged during construction shall be replaced in like kind to as good or better condition than existing. Removal and/or replacement shall be considered incidental to construction and not paid for separately.

SC-24.0 The Contractor shall be responsible for meeting 98% compaction on all trench backfill and paying for the test results performed by a third party. Compaction tests will be done at one location point randomly selected or as indicated by the SAWS Inspector/Test Administer, per each 12-inch loose lift per 400 linear feet at a minimum. This project will not be accepted and finalized by SAWS without this requirement being met and verified by providing all necessary documented test results.

SC-25.0 Section 4.6 of the general conditions shall be amended as follows:
CONTRACTORS – The Contractor shall perform the Work with its own organization on at least 40% of the total original contract price.

The term to “perform the Work with its own organization” is defined herein as utilizing only:

- Workers employed and paid directly by the Contractor or a wholly owned subsidiary of the contractor.
- Equipment owned by the contractor or its wholly owned subsidiary.
- Rented or leased equipment operated by the Contractor’s, or its wholly owned subsidiaries, employees.
- For purposes of determining the value of the Work self performed, the amount shall include all materials incorporated into the Work where the majority of the value of the Work involved in incorporating the material is performed by the Contractor’s own Organization, including wholly owned subsidiary; and
- Labor provided by staff leasing firms licensed under Chapter 91 of the Texas Labor code for non supervisory personnel if the contractor or wholly owned subsidiary maintains direct control over the labor.

The remaining sections of Article IV shall remain the same.

SC-26.0 Section 5.4 of the general conditions shall be amended as follows:

SUPERINTENDANTS - The Contractor shall keep on-site pursuant to this Project during its progress a competent full time Superintendent who is a direct employee of the prime contractor and any necessary assistants, all satisfactory to the Owner.

The appointment of a designee in lieu of a full time superintendant shall not be allowed as part of this provision, therefore any reference to “designee” shall not be applicable.

The remaining sections of Article V shall remain the same.

SC-27.0 Contractor’s Insurance Requirement: The GCCC – Section 5.7 Contractor’s Insurance Requirements adequately specifies the lines of insurance coverage with one exception: Section 5.7.1.1.8 – Builders Risk coverage is being waived.