

## CONTRACT

This Contract, made and entered into this 31 day of December 2019,

by and between the CITY OF KEY WEST, hereinafter called the "Owner", and \_\_\_\_\_

Ebsary Foundation Company

hereinafter called the "Contractor";

WITNESSETH:

The Contractor, in consideration of the sum to be paid him by the Owner and of the covenants and agreements herein contained, hereby agrees at his own proper cost and expense to do all the work and furnish all the materials, tools, labor, and all appliances, machinery, and appurtenances for

FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR, DATED DECEMBER 19, Key West, Florida to the extent of the Contract Documents referred to herein.

The CONTRACT DOCUMENTS include the signed copy of the PROPOSAL, CONTRACT FORM, SUMMARY OF WORK, CONSTRUCTION DRAWINGS, AND GENERAL CONDITIONS all of which are attached hereto and incorporated herein.

In consideration of the performance of the work as set forth in these Contract Documents, the Owner agrees to pay to the Contractor the amount proposed in the PROPOSAL as adjusted in accordance with the Contract Documents, or as otherwise herein provided, and to make such payments in the manner and at the times provided in the Contract Documents.

The Contractor agrees to complete the work within 120 days and to accept as full payment hereunder the amounts computed as determined by the Contract Documents and based on the said PROPOSAL.

The Contractor agrees to remedy all defects appearing in the work or developing in the materials furnished and the workmanship performed under this Contract during the warranty period after the date of final acceptance of the work by the Owner, and further agrees to indemnify and save the Owner harmless from any costs encountered in remedying such defects.

It is agreed that the Contract, based upon the PROPOSAL, shall be fully complete within the stated number of consecutive calendar days from the date the Notice to Proceed is issued.

In the event the Contractor fails to complete the work within the time limit or extended time limit agreed upon, as more particularly set forth in the Contract Documents, liquidated damages shall be paid at a rate of \$2,500.00 per day. Sundays and legal holidays shall be included in determining days in default.

This contract will automatically expire upon completion of the project. Contractors warranty obligations remain in effect.

IN WITNESS WHEREOF, we, the parties hereto, each herewith subscribe the same this

2<sup>nd</sup> Day of January, A.D., 2019.

CITY OF KEY WEST

By 

Title City Manager

CONTRACTOR

By 

Title J.P.

### CITY OF KEY WEST INDEMNIFICATION FORM

The CONTRACTOR shall indemnify and hold harmless the City of Key West, its officers, and employees, from liabilities, damages, losses and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this agreement. Except as specifically provided herein, this agreement does not require CONTRACTOR to indemnify the City of Key West, its employees, officers, directors, or agents from any liability, damage, loss, claim, action or proceeding.

These indemnifications shall survive the term of this agreement. In the event that any action or proceeding is brought against the City of Key West by reason of such claim or demand, CONTRACTOR shall, upon written notice from the City of Key West, resist and defend such action or proceeding by counsel satisfactory to the City of Key West.

The indemnification provided above shall obligate CONTRACTOR to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at the City of Key West's option, any and all claims of liability and all suits and actions of every name and description covered above which may be brought against the City of Key West whether performed by CONTRACTOR, or persons employed or utilized by CONTRACTOR.

The CONTRACTOR's obligation under this provision shall not be limited in any way by the agreed upon Contract Price as shown in this agreement, or the CONTRACTOR's limit of or lack of sufficient insurance protection.

CONTRACTOR:

Ebsary Foundation Co.  
2154 N.W. North River Dr.  
Miami, FL 33125

SEAL:

Address

Signature

Scott Aitefe

Print Name

President

Title

DATE:

12/26/19

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## **DEFINITIONS**

Whenever in the Contract Documents the following terms are used, the intent and meaning shall be interpreted as follows:

### **1. AS APPROVED**

The words "as approved", unless otherwise qualified, shall be understood to be followed by the words "by the ENGINEER for conformance with the Contract Document".

### **2. AS SHOWN, AND AS INDICATED**

The words "as shown" and "as indicated" shall be understood to be followed by the words "on the Drawings".

### **3. BIDDER**

The person or persons, partnership, firm, or corporation submitting a Bid for the work contemplated.

### **4. CONTRACT DOCUMENTS**

The "Contract Documents" consist of the Bidding Requirements, Contract Forms, Conditions of the Contract, Specifications, Drawings, all modifications thereof incorporated into the Documents before their execution, Change Orders, and all other requirements incorporated by specific reference thereto. These form the Contract.

### **5. CONTRACTOR**

The person or persons, partnership, firm, or corporation who enters into the Contract awarded him by the OWNER.

### **6. CONTRACT COMPLETION**

The "Contract Completion" is the date the OWNER accepts the entire work as being in compliance with the Contract Documents, or formally waives nonconforming work to extent of nonconformity, and issues the final payment in accordance with the requirements set forth in Article, "Final Payment" of these General Conditions.

### **7. DAYS**

Unless otherwise specifically stated, the term "days" will be understood to mean calendar days. Business day or working day means any day other than Saturday, Sunday, or legal holiday.

### **8. DRAWINGS**

The term "Drawings" refers to the official Drawings, profiles, cross sections, elevations, details, and other working drawings and supplementary drawings, or reproductions thereof, signed by the ENGINEER, which shows the location, character, dimensions, and details of the work to be performed. Drawings may either be bound in the same book as the balance of the Contract Documents, or bound in separate sets, and are a part of the Contract Documents, regardless of the method of binding.

### **9. ENGINEER**

The person or organization identified as such in the Contract Documents. The Term "ENGINEER" means ENGINEER or his authorized representative.

### **10. NOTICE**

The term "notice" or the requirement to notify, as used in the Contract Documents or applicable state or federal statutes, shall signify a written communication delivered in person or by registered mail to the individual, or to a member of the firm, or to an officer of the corporation for whom it is intended. Certified or registered mail shall be addressed to the last business address known to him who gives the notice.

### **11. OR EQUAL**

The term "or equal" shall be understood to indicate that the "equal" product is equivalent to or better than the product named in function, performance, reliability, quality, and general configuration. Determination of equality in reference to the project design requirements will be made by the ENGINEER. Such equal products shall not be purchased or installed by the CONTRACTOR without written authorization.

### **12. OWNER**

The person, organization, or public body identified as such in the Contract Documents.

### **13. PLANS (See Drawings)**

### **14. SPECIFICATIONS**

The term "Specifications" refers to those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the

work and certain

administrative details applicable thereto. Where standard specifications, such as those of ASTM, AASHTO, etc., have been referred to, the applicable portions of such standard specifications shall become a part of these Contract Documents. If referenced specifications conflict with specifications contained herein, the requirements contained herein shall prevail.

#### **15. NOTICE TO PROCEED**

A written notices given by the OWNER to the CONTRACTOR (with a copy to the ENGINEER) fixing the date on which the Contract time will commence to run and on which the CONTRACTOR shall start to perform his obligation under the Contract Documents. The Notice to Proceed will be given within 30 days following the execution of the Contract by the OWNER.

#### **16. SUBSTANTIAL COMPLETION**

"Substantial Completion" shall be that degree of completion of the Project or a defined portion of the Project, as evidenced by the ENGINEER's written notice of Substantial Completion, sufficient to provide the OWNER, at his discretion, the full-time use of the Project or defined portion of the Project for the purposes for which it was intended. "Substantial Completion" of an operating facility shall be that degree of completion that has provided a minimum of 7 continuous days of successful, trouble-free, operation, which period shall begin after all performance and acceptance testing has been successfully demonstrated to the ENGINEER. All equipment contained in the work, plus all other components necessary to enable the OWNER to operate the facility in a manner that was intended, shall be complete on the substantial completion date.

#### **17. WORK**

The word "work" within these Contract Documents shall include all material, labor, tools, and all appliances, machinery, transportation, and appurtenances necessary to perform and complete the Contract, and such additional items not specifically indicated or described which can be reasonably inferred as belonging to the item described or indicated and as required by good practice to provide a complete and satisfactory system or structure. As used herein, "provide" shall be understood to mean "furnish and install, complete in-place".

#### **CONTRACT DOCUMENTS**

#### **18. INTENT OF CONTRACT DOCUMENTS**

The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all. The intent of the Documents is to describe a functionally complete Project (or 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 shall be supplied whether or not specifically called for. 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.

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 on the first published date of the Invitation to Bid, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of OWNER, CONTRACTOR, or ENGINEER, or any of their consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to ENGINEER, or any ENGINEER's consultants, agents, or employees, any duty or authority to supervise or direct the furnishing or performance of the work or any duty or authority to undertake responsibility contrary to the provisions of Article LIMITATIONS ON ENGINEER'S RESPONSIBILITIES.

#### **19. DISCREPANCIES AND OMISSIONS**

Any discrepancies or omissions found in the Contract Documents shall be reported to the ENGINEER immediately. The ENGINEER will clarify discrepancies or omissions, in writing, within a reasonable time.

In resolving inconsistencies among two or more sections of the Contract Documents, precedence shall be given in the following order:

- A. CONTRACT
- B. BID
- C. SUPPLEMENTARY CONDITIONS
- D. INVITATION TO BID
- E. INSTRUCTIONS TO BIDDERS
- F. GENERAL CONDITIONS
- G. SPECIFICATIONS
- H. DRAWINGS

Addenda shall take precedence over all sections referenced therein. Figure dimensions on Drawings shall take precedence over scale dimensions. Detailed Drawings shall take precedence over general Drawings.

## **20. CHANGES IN THE WORK**

The OWNER, without notice to the Sureties and without invalidating the Contract, may order changes in the work within the general scope of the Contract by altering, adding to, or deducting from the work, the Contract being adjusted accordingly. All such work shall be executed under the conditions of the original Contract, except as specifically adjusted at the time of ordering such change.

In giving instructions, the ENGINEER may order minor changes in the work not involving extra cost and not inconsistent with the purposes of the Project, but otherwise, except in an emergency endangering life and property, additions or deductions from the work shall be performed only in pursuance of an approved Change Order from the OWNER, countersigned by the ENGINEER.

If the work is reduced by alterations, such action shall not constitute a claim for damages based on loss of anticipated profits.

## **21. EXAMINATION AND VERIFICATION OF CONTRACT DOCUMENTS**

The CONTRACTOR shall thoroughly examine and become familiar with all of the various parts of these Contract Documents and determine the nature and location of the work, the general and local conditions, and all other matters, which can in any way affect the work under this Contract. Failure to make an examination necessary for this determination shall not release the CONTRACTOR from the obligations of this Contract. No verbal agreement or conversation with any officer, agent, or employee of the OWNER or with the ENGINEER either before or after the execution of this Contract shall affect or modify any of the terms or obligations herein contained.

## **22. DOCUMENTS TO BE KEPT ON THE JOBSITE**

The CONTRACTOR shall keep one copy of the Contract Documents on the job- site, in good order, available to the ENGINEER and to his representatives.

The CONTRACTOR shall maintain on a daily basis at the

jobsite, and make available to the ENGINEER on request, one current record set of the Drawings which have been accurately marked to indicate all modifications in the completed work that differ from the design information shown on the Drawings. Upon Substantial completion of the work, the CONTRACTOR shall give the ENGINEER one complete set of these marked up record Drawings.

## **23. ADDITIONAL CONTRACT DOCUMENTS**

Copies of Contract Documents or Drawings may be obtained on request from the ENGINEER and by paying the actual cost of reproducing the Contract Documents or Drawings.

## **24. OWNERSHIP OF CONTRACT DOCUMENTS**

All portions of the Contract Documents, and copies thereof furnished by the ENGINEER are instruments of service for this Project. They are not to be used on other work and are to be returned to the ENGINEER on request at the completion of the work. Any reuse of these materials without specific written verification or adaptation by the ENGINEER will be at the risk of the user and without liability or legal expense to the ENGINEER. Such user shall hold the ENGINEER harmless from any and all damages, including reasonable attorneys' fees, from any and all claims arising from any such reuse. Any such verification and adaptation shall entitle the ENGINEER to further compensation at rates to be agreed upon by the user and the ENGINEER.

## **THE ENGINEER**

### **25. AUTHORITY OF THE ENGINEER**

The ENGINEER will be the OWNER's representative during the construction period. His authority and responsibility will be limited to the provisions set forth in these Contract Documents. The ENGINEER will have the Authority to reject work that does not conform to the Contract Documents. However, neither the ENGINEER's authority to act under this provision, nor any decision made by him in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the ENGINEER to the CONTRACTOR, any SUBCONTRACTOR, their respective Sureties, any of their agents or employees, or any other person performing any of the work.

### **26. DUTIES AND RESPONSIBILITIES OF THE ENGINEER**



The ENGINEER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the work and to determine, in general, if the work is proceeding in accordance with the intent of the Contract Documents. He will not make comprehensive or continuous review or observation to check quality or quantity of the work, and he will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work. Visits and observations made by the ENGINEER shall not relieve the CONTRACTOR of his obligation to conduct comprehensive inspections of the work and to furnish materials and perform acceptable work, and to provide adequate safety precautions, in conformance with the intent of the Contract.

The ENGINEER will make recommendations to the OWNER, in writing, on all claims of the OWNER or the CONTRACTOR arising from interpretation or execution of the Contract Documents. Such recommendations will be of factual and/or technical nature, and will not include the legal interpretation of the Contract Documents. Any necessary legal interpretation of the Contract Document will be made by the OWNER. Such recommendation shall be necessary before the CONTRACTOR can receive additional money under the terms of the Contract. Changes in work ordered by the ENGINEER shall be made in compliance with Article CHANGES IN THE WORK.

One or more project representatives may be assigned to observe the work. It is understood that such project representatives shall have the authority to issue notice of nonconformance and make decisions within the limitations of the authority of the ENGINEER. The CONTRACTOR shall furnish all reasonable assistance required by the ENGINEER or project representatives for proper observation of the work. The above-mentioned project representatives shall not relieve the CONTRACTOR of his obligations to conduct comprehensive inspections of the work and to furnish materials and perform acceptable work, and to provide adequate safety precautions, in conformance with the intent of the Contract.

## **27. LIMITATIONS ON ENGINEER'S RESPONSIBILITIES**

ENGINEER will not be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, and ENGINEER will not be responsible for

CONTRACTOR's failure to perform or furnish the work in accordance with the Contract Documents.

ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any SUBCONTRACTOR, any supplier, or of any other person or organization performing or furnishing any of the work.

Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved", or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper", or "satisfactory", or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of ENGINEER as to the work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the furnishing or performance of the work or any duty or authority to undertake responsibility contrary to the provisions of this Article.

## **28. REJECTED WORK**

Any defective work or nonconforming materials or equipment that may be discovered at any time prior to expiration of the warranty period shall be removed and replaced by work which shall conform to the provisions of the Contract Documents. Any material condemned or rejected shall be removed at once from the project site.

Failure on the part of the ENGINEER to condemn or reject bad or inferior work or to note nonconforming materials or equipment on CONTRACTOR submittals shall not be construed to imply acceptance of such work. The OWNER shall reserve and retain all of its rights and remedies at law against the CONTRACTOR and its Surety for correction of any and all latent defects discovered after the guarantee period.

## **29. LINES AND GRADES**

Lines and grades shall be established as provided in the supplementary conditions. All stakes, marks, and other reference information shall be carefully preserved by the CONTRACTOR, and in case of their careless or unnecessary destruction or removal by him or his employees, such stakes, marks, and other information shall be replaced at the CONTRACTOR's expense.

### **30. SUBMITTALS**

After checking and verifying all field measurements and after complying with applicable procedures specified in Division I, GENERAL REQUIREMENTS, CONTRACTOR shall submit to ENGINEER, in accordance with the schedule for submittals for review, shop drawings, electrical diagrams, and catalog cuts for fabricated items and manufactured items (including mechanical and electrical equipment), which shall bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submittal. All submittals shall be identified as ENGINEER may require. The data shown shall be complete with respect to quantities, dimensions specified, performance and design criteria, materials, and similar data to enable ENGINEER to review the information. CONTRACTOR shall also submit to ENGINEER for review, with such promptness as to cause no delay in work, all samples required by the Contract Documents. All samples shall have been checked by and 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 and shall be identified clearly as to material, supplier, pertinent data such as catalog numbers and the use for which intended.

Before submission of each submittal, 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 submittal with other submittals and with the requirements of the work and the Contract Documents.

At the time of each submission, CONTRACTOR shall give ENGINEER specific written notice of each variation that the submittal may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each shop drawing submitted to ENGINEER for review and approval of each variation.

ENGINEER will review submittals with reasonable promptness, but ENGINEER's review will be only for conformance with the design concept of the Project and for compliance with the information given 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 of a separate item as such will not indicate review of the assembly in which the item functions. CONTRACTOR shall make corrections required by ENGINEER, and shall return the required number of corrected copies of shop drawings and submit as required new samples for review. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

ENGINEER's review of submittals shall not relieve CONTRACTOR from the responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of submission and ENGINEER has given written approval of each such variation by a specific written notation thereof incorporated therein or accompanying the shop drawing or sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for errors or omissions in the shop drawings or from responsibility for having complied with the provisions herein.

Where a shop drawing or sample is required by the specifications, any related work performed prior to ENGINEER's review and approval of the pertinent submission shall be at the sole expense and responsibility of the CONTRACTOR.

### **31. DETAIL DRAWINGS AND INSTRUCTIONS**

The ENGINEER will furnish, with reasonable promptness, additional instructions by means of Drawings or otherwise, if, in the ENGINEER's opinion, such are required for the proper execution of the work. All such Drawings and instructions will be consistent with the Contract Documents, true developments thereof, and reasonably inferable there from.

### **THE CONTRACTOR AND HIS EMPLOYEES**

#### **32. CONTRACTOR, AN INDEPENDENT AGENT**

The CONTRACTOR shall independently perform all work under this Contract and shall not be considered as an agent of the OWNER or of the ENGINEER, nor shall the CONTRACTOR's SUBCONTRACTOR's or employees be subagents of the OWNER or of the ENGINEER.

### **33. SUBCONTRACTING**

Unless modified in the Supplementary Conditions, within 10 days after the execution of the Contract, the

CONTRACTOR shall submit to the ENGINEER the names of all SUBCONTRACTORS proposed for the work, including the names of any SUBCONTRACTORS that were submitted with the Bid. The CONTRACTOR shall not employ any SUBCONTRACTORS to which the OWNER may object to as lacking capability to properly perform work of the type and scope anticipated.

The CONTRACTOR is as fully responsible to the OWNER for the acts and omissions of his SUBCONTRACTORS and of persons either directly or indirectly employed by them as he is for the acts and omissions of persons directly employed by him.

Nothing contained in the Contract Documents shall create any contractual relationship between any SUBCONTRACTOR and the OWNER or ENGINEER.

### **34. INSURANCE AND LIABILITY**

#### **A. GENERAL**

The CONTRACTOR shall provide (from insurance companies acceptable to the OWNER) the insurance coverage designated hereinafter and pay all costs.

Before commencing work under this Contract, the CONTRACTOR shall furnish the OWNER with certificates of insurance specified herein showing the type, amount class of operations covered, effective dates, and date of expiration of policies, and containing substantially the following statement:

"The insurance covered by this certificate shall not be canceled or materially altered, except after 30 days' written notice has been received by the OWNER."

In case of the breach of any provision of this Article, the OWNER, at his option, may take out and maintain, at the expense of the CONTRACTOR, such insurance as the OWNER may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the CONTRACTOR under this Contract.

#### **B. CONTRACTOR AND SUBCONTRACTOR INSURANCE**

The CONTRACTOR shall not commence work under this Contract until he has obtained all the insurance required hereunder and such insurance has been reviewed by the OWNER, nor shall the CONTRACTOR allow any SUBCONTRACTOR to commence work on his subcontract until insurance specified below has been

obtained. Review of the insurance by the OWNER shall not relieve or decrease the liability of the CONTRACTOR hereunder.

#### **C. COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE**

The CONTRACTOR shall maintain during the life of this Contract the statutory amount of Workmen's Compensation Insurance, in addition, Employer's Liability Insurance in an amount as specified in the Supplementary Conditions, for each occurrence, for all of his employees to be engaged in work on the project under this Contract. In case any such work is subcontracted, the Contractor shall require the Subcontractor to provide similar Worker's Compensation and Employer's Liability Insurance for all of the Subcontractor's employees to be engaged in such work.

#### **D. GENERAL LIABILITY INSURANCE (INCLUDING AUTOMOBILE)**

The CONTRACTOR shall maintain during the life of this Contract such general liability, completed operations and products liability, and automobile liability insurance as will provide coverage for claims for damages for personal injury, including accidental death, as well as for claims for property damage, which may arise directly or indirectly from performance of the work under this Contract. The general liability policy shall include contractual liability assumed by the CONTRACTOR under Article INDEMNITY. Coverage for property damage shall be on a "broad form" basis with no exclusions for "X, C & U". The amount of insurance to be provided shall be as specified in the Supplementary Conditions.

In the event any work under this Contract is performed by a SUBCONTRACTOR, the CONTRACTOR shall be responsible for any liability directly or indirectly arising out of the work performed by the SUBCONTRACTOR, to the extent such liability is not covered by the SUBCONTRACTOR's insurance.

The OWNER and ENGINEER, their officers, agents, and employees shall be named as Additional Insured's on the CONTRACTOR's and any SUBCONTRACTOR's general liability and automobile liability insurance policies for any claims arising out of work performed under this Contract.

#### **E. BUILDERS RISK ALL RISK INSURANCE**

Unless otherwise modified in the Supplementary Conditions, the CONTRACTOR shall secure and

maintain during the life of this Contract, Builders Risk All Risk Insurance coverage in an amount equal to the full value of the facilities/ work performed under this Contract/ construction. Such insurance shall include coverage for earthquake, landslide, flood, collapse, loss due to the results of faulty workmanship or design, and all other normally covered risks, and shall provide for losses to be paid to the CONTRACTOR, OWNER, and ENGINEER as their interests may appear.

The OWNER and ENGINEER, their officers, agents, and employees shall be named as additional insured's on the CONTRACTOR's and any SUBCONTRACTOR's Builders Risk All Risk insurance policies for any claims arising out of work performed under this Contract.

This insurance shall include a waiver of subrogation as to the ENGINEER, the OWNER, the CONTRACTOR, and their respective officers, agents, employees and SUBCONTRACTORS.

#### **F. NO PERSONAL LIABILITY OF PUBLIC OFFICIALS**

In carrying out any of the provisions hereof in exercising any authority granted by the Contract, there will be no personal liability upon any public official.

#### **35. INDEMNITY**

To the maximum extent permitted by law, the Contractor shall indemnify and defend the Owner and the Engineer, and their officers, employees, agents, and sub-consultants, from all claims and losses, including attorney's fees and litigation costs arising out of property losses or health, safety, personal injury, or death claims by the Contractor, its subcontractors of any tier, and their employees, agents, or invitees regardless of the fault, breach of Contract, or negligence of the Owner or Engineer, excepting only such claims or losses that have been adjudicated to have been caused solely by the negligence of the Owner or the Engineer and regardless of whether or not the Contractor is or can be named a party in a litigation.

#### **36. EXCLUSION OF CONTRACTOR CLAIMS**

In performing its obligations, the ENGINEER and its consultants may cause expense for the CONTRACTOR or its SUBCONTRACTORS and equipment or material suppliers. However, those parties and their sureties shall maintain no direct action against the ENGINEER, its officers, employees, agents, and consultants for any claim arising out of, in connection with, or resulting from the

engineering services performed or required to be performed.

#### **37. TAXES AND CHARGES**

The CONTRACTOR shall withhold and pay any and all sales and use taxes and all withholding taxes, whether State or Federal, and pay all Social Security charges and also all State Unemployment Compensation charges, and pay or cause to be withheld, as the case may be, any and all taxes, charges, or fees or sums whatsoever, which are now or may hereafter be required to be paid or withheld under any laws.

#### **38. REQUIREMENTS OF STATE LAW FOR PUBLIC WORKS PROJECTS**

When the Contract Documents concern public works of the state or any county, municipality, or political subdivision created by its laws, the applicable statutes shall apply. All parties to this Contract shall determine the contents of all applicable statutes and comply with their provisions throughout the performance of the Contract.

#### **39. CODES, ORDINANCES, PERMITS AND LICENSES**

The CONTRACTOR shall keep himself fully informed of all local codes and ordinances, as well as state and federal laws, which in any manner affect the work herein specified. The CONTRACTOR shall at all times comply with said codes and ordinances, laws, and regulations, and protect and indemnify the OWNER, the ENGINEER and their respective employees, and its officers and agents against any claim or liability arising from or based on the violation of any such laws, ordinances, or regulations. All permits, licenses and inspection fees necessary for prosecution and completion of the work shall be secured and paid for by the CONTRACTOR, unless otherwise specified.

#### **40. SUPERINTENDENCE**

The CONTRACTOR shall keep at the project site, competent supervisory personnel. The CONTRACTOR shall designate, in writing, before starting work, a project superintendent who shall be an employee of the CONTRACTOR and shall have complete authority to represent and to act for the CONTRACTOR. ENGINEER shall be notified in writing prior to any change in superintendent assignment. The CONTRACTOR shall give efficient supervision to the work, using his best skill and attention. The CONTRACTOR shall be solely responsible for all construction means, methods,

techniques, and procedures, and for providing adequate safety precautions and coordinating all portions of the work under the Contract. It is specifically understood and agreed that the ENGINEER, its employees and agents, shall not have control or charge of and shall not be responsible for the construction means, methods, techniques, procedures, or for providing adequate safety precautions in connection with the work under Contract.

#### **41. RECEPTION OF ENGINEER'S COMMUNICATIONS**

The superintendent shall receive for the CONTRACTOR all communications from the ENGINEER. Communications of major importance will be confirmed in writing upon request from the CONTRACTOR.

The ENGINEER may schedule project meetings for the purposes of discussing and resolving matters concerning the various elements of the work. Time and place for these meetings and the names of persons required to be present shall be as determined by the ENGINEER. CONTRACTOR shall comply with these attendance requirements and shall also require his SUBCONTRACTORS to comply.

#### **42. SAFETY**

The CONTRACTOR shall be solely and completely responsible for conditions of the jobsite, including safety of all persons (including employees) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to U.S. Department of Labor (OSHA), and all other applicable federal, state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. The CONTRACTOR's failure to thoroughly familiarize himself with the aforementioned safety provisions shall not relieve him from compliance with the obligations and penalties set forth therein.

The CONTRACTOR shall develop and maintain for the duration of this Contract, a safety program that will effectively incorporate and implement all required safety provisions. The CONTRACTOR shall appoint an employee who is qualified and authorized to supervise and enforce compliance with the safety program.

The duty of the ENGINEER to conduct construction review of the work does not include review or approval of the adequacy of the CONTRACTOR's safety program, safety supervisor, or any safety measures taken in, on, or

near the construction site.

The CONTRACTOR, as a part of his safety program, shall maintain at his office or other well-known place at the jobsite, safety equipment applicable to the work as prescribed by the aforementioned authorities, all articles necessary for giving first-aid to the injured, and shall establish the procedure for the immediate removal to a hospital or a doctor's care of persons (including employees) who may be injured on the jobsite.

If death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to both the ENGINEER and the OWNER. In addition, the CONTRACTOR must promptly report in writing to the ENGINEER all accidents whatsoever arising out of, or in connection with, the performance of the work whether on, or adjacent to, the site, giving full details and statements of witnesses.

If a claim is made by anyone against the CONTRACTOR or any SUBCONTRACTOR on account of any accident, the CONTRACTOR shall promptly report the facts in writing to the ENGINEER, giving full details of the claim.

#### **43. PROTECTION OF WORK AND PROPERTY**

The CONTRACTOR shall at all times safely guard and protect from damage the OWNER's property, adjacent property, and his own work from injury or loss in connection with this Contract. All facilities required for protection by federal, state, or municipal laws and regulations and local conditions must be provided and maintained.

The CONTRACTOR shall protect his work and materials from damage due to the nature of the work, the elements, carelessness of other CONTRACTORS, or from any cause whatever until the completion and acceptance of the work. All loss or damages arising out of the nature of the work to be done under these Contract Documents, or from any unforeseen obstruction or defects which may be encountered in the prosecution of the work, or from the action of the elements, shall be sustained by the CONTRACTOR.

#### **44. RESPONSIBILITY OF CONTRACTOR TO ACT IN AN EMERGENCY**

In case of an emergency which threatens loss or injury of property, and/or safety of life, the CONTRACTOR shall act, without previous instructions from the OWNER or ENGINEER, as the situation may warrant. The

CONTRACTOR shall notify the ENGINEER thereof immediately thereafter. Any claim for compensation by the CONTRACTOR, together with substantiating documents in regard to expense, shall be submitted to the OWNER through the ENGINEER and the amount of compensation shall be determined by agreement.

#### **45. MATERIALS AND APPLIANCES**

Unless otherwise stipulated, the CONTRACTOR shall provide and pay for all materials, labor, water, tools, equipment, heat, light, fuel, power, transportation, construction equipment and machinery, appliances, telephone, sanitary facilities, temporary facilities and other facilities and incidentals necessary for the execution and completion of the work.

Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality. The CONTRACTOR shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

In selecting and/or approving equipment for installation in the Project, the OWNER and ENGINEER assume no responsibility for injury or claims resulting from failure of the equipment to comply with applicable federal, state, and local safety codes or requirements, or the safety requirements of a recognized agency, or failure due to faulty design concepts, or defective workmanship and materials.

#### **46. CONTRACTORS' AND MANUFACTURERS' COMPLIANCE WITH STATE SAFETY, OSHA, AND OTHER CODE REQUIREMENTS**

The completed work shall include all necessary permanent safety devices, such as machinery guards and similar ordinary safety items required by the state and federal (OSHA) industrial authorities and applicable local and national codes. Further, any features of the work subject to such safety regulations shall be fabricated, furnished, and installed (including OWNER-furnished equipment) in compliance with these requirements. CONTRACTORS and manufacturers of equipment shall be held responsible for compliance with the requirements included herein. CONTRACTORS shall notify all equipment suppliers and SUBCONTRACTORS of the provisions of this Article.

#### **47. SUBSTITUTION OF MATERIALS**

Except for OWNER-selected equipment items, and items where no substitution is clearly specified, whenever any

material, article, device, product, fixture, form, type of construction, or process is indicated or specified by patent or proprietary name, by name of manufacturer, or by catalog number, such specifications shall be deemed to be used for the purpose of establishing a standard of quality and facilitating the description of the material or process desired. This procedure is not to be construed as eliminating from competition other products of equal or better quality by other manufacturers where fully suitable in design, and shall be deemed to be followed by the words "or equal". The CONTRACTOR may, in such cases, submit complete data to the ENGINEER for consideration of another material, type, or process that shall be substantially equal in every respect to that so indicated or specified. Substitute materials shall not be used unless approved in writing. The ENGINEER will be the sole judge of the substituted article or material.

#### **48. TESTS, SAMPLES, AND OBSERVATIONS**

The CONTRACTOR shall furnish, without extra charge, the necessary test pieces and samples, including facilities and labor for obtaining the same, as requested by the ENGINEER. When required, the CONTRACTOR shall furnish certificates of tests of materials and equipment made at the point of manufacture by a recognized testing laboratory.

The OWNER, ENGINEER, and authorized government agents, and their representatives shall at all times be provided safe access to the work wherever it is in preparation or progress, and the CONTRACTOR shall provide facilities for such access and for observations, including maintenance of temporary and permanent access.

If the Specifications, laws, ordinances, or any public authority require any work, to be specially tested or approved, the CONTRACTOR shall give timely notice of its readiness for observations. If any work should be covered up without approval or consent of the ENGINEER, it shall, if required by the ENGINEER, be uncovered for examination at the CONTRACTOR's expense.

Reexamination of questioned work may be ordered by the ENGINEER, and, if so ordered, the work shall be uncovered by the CONTRACTOR. If such work is found to be in accordance with the Contract Documents, the OWNER will pay the cost of uncovering, exposure, observation, inspection, testing and reconstruction. If such work is found to be not in accordance with the Contract Documents, the CONTRACTOR shall correct

the defective work, and the cost of reexamination and correction of the defective work shall be paid by the CONTRACTOR.

#### **49. ROYALTIES AND PATENTS**

The CONTRACTOR shall pay all royalty and licenses fees, unless otherwise specified. The CONTRACTOR shall defend all suits or claims for infringement of any patent rights and shall save the OWNER and the ENGINEER harmless from any and all loss, including reasonable attorneys' fees, on account thereof.

#### **50. CONTRACTOR'S RIGHT TO TERMINATE CONTRACT**

If the work should be stopped under an order of any court or other public authority for a period of more than 3 months, through no act or fault of the CONTRACTOR, its SUBCONTRACTORS, or respective employees or if the ENGINEER should fail to make recommendation for payment to the OWNER or return payment request to CONTRACTOR for revision within 30 days after it is due, or if the OWNER should fail to pay the CONTRACTOR within 30 days after time specified in Article PARTIAL PAYMENTS, any sum recommended by the ENGINEER, then the CONTRACTOR may, upon 15 days' written notice to the OWNER and the ENGINEER, stop work or terminate this Contract and recover from the OWNER payment for all acceptable work performed and reasonable termination expenses, unless said default has been remedied.

#### **51. CORRECTION OF DEFECTIVE WORK DURING WARRANTY PERIOD**

The CONTRACTOR hereby agrees to make, at his own expense, all repairs or replacements necessitated by defects in materials or workmanship, provided under terms of this Contract, and pay for any damage to other works resulting from such defects, which become evident within 1 year after the date of final acceptance of the work or within 1 year after the date of substantial completion established by the ENGINEER for specified items of equipment, or within such longer period as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents. Unremedied defects identified for correction during the warranty period but remaining after its expiration shall be considered as part of the obligations of the warranty. Defects in material, workmanship, or equipment which are remedied as a result of obligations of the warranty shall subject the remedied portion of the work to an extended warranty period of 1 year after the defect has been remedied.

The CONTRACTOR further assumes responsibility for a similar guarantee for all work and materials provided by SUBCONTRACTORS or manufacturers of packaged equipment components. The effective date for the start of the guarantee or warranty period for equipment qualifying as substantially complete is defined in Article SUBSTANTIAL COMPLETION, AND Article SUBSTANTIAL COMPLETION DATE, in these General Conditions.

The CONTRACTOR also agrees to hold the OWNER and the ENGINEER harmless from liability of any kind arising from damage due to said defects. The CONTRACTOR shall make all repairs and replacements promptly upon receipt of written order for same from the OWNER. If the CONTRACTOR fails to make the repairs and replacements promptly, or in an emergency where delay would cause serious risk, or loss, or damage, the OWNER may have the defective work corrected or the rejected work removed and replaced, and the CONTRACTOR and his Surety shall be liable for the cost thereof.

#### **PROGRESS OF THE WORK**

#### **52. BEGINNING OF THE WORK**

Following execution of the Contract, the CONTRACTOR shall meet with the OWNER and ENGINEER relative to his arrangements for prosecuting the work.

#### **53. SCHEDULES AND PROGRESS REPORTS**

Prior to starting the construction, the CONTRACTOR shall prepare and submit to the ENGINEER, a progress schedule showing the dates on which each part or division of the work is expected to be started and finished, and a preliminary schedule for submittals. The progress schedule for submittals shall be brought up to date and submitted to the ENGINEER at the end of each month or at such other times the ENGINEER may request.

The CONTRACTOR shall forward to the ENGINEER, at the end of each month, an itemized report of the delivery status of major and critical items of purchased equipment and material, including shop drawings and the status of shop and field fabricated work. These progress reports shall indicate the date of the purchase order, the current percentage of completion, estimated delivery, and cause of delay, if any.

If the completion of any part of the work or the delivery of materials is behind the submitted progress schedule, the CONTRACTOR shall submit in writing a plan acceptable to the OWNER and ENGINEER for bringing the work up to schedule.

The OWNER shall have the right to withhold progress payments for the work if the CONTRACTOR fails to update and submit the progress schedule and reports as specified.

#### **54. PROSECUTION OF THE WORK**

It is expressly understood and agreed that the time of beginning, rate of progress, and time of completion of the work are the essence of this Contract. The work shall be prosecuted at such time, and in or on such part or parts of the Project as may be required, to complete the Project as contemplated in the Contract Documents and the progress schedule.

If the CONTRACTOR desires to carry on work at night or outside the regular hours, he shall give timely notice to the ENGINEER to allow satisfactory arrangements to be made for observing the work in progress.

#### **55. OWNER'S RIGHT TO RETAIN IMPERFECT WORK**

If any part or portion of the work completed under this Contract shall prove defective and not in accordance with the Drawings and Specifications, and if the imperfection in the same shall not be of sufficient magnitude or importance as to make the work dangerous or unsuitable, or if the removal of such work will create conditions

which are dangerous or undesirable, the OWNER shall have the right and authority to retain such work but will make such deductions in the final payment therefore as may be just and reasonable.

#### **56. OWNER'S RIGHT TO DO WORK**

Should the CONTRACTOR neglect to prosecute the work in conformance with the Contract Documents or neglect or refuse at his own cost to remove and replace work rejected by the ENGINEER, then the OWNER may notify the Surety of the condition, and after 10 days' written notice to the CONTRACTOR and the Surety, or without notice if an emergency or danger to the work or public exists, and without prejudice to any other right which the OWNER may have under Contract, or otherwise, take over that portion of the work which has been improperly or non-timely executed, and make good the deficiencies and deduct the cost thereof from the payments then or thereafter due the CONTRACTOR.

#### **57. OWNER'S RIGHT TO TRANSFER EMPLOYMENT**

If the CONTRACTOR should abandon the work or if he should persistently or repeatedly refuse or should fail to make prompt payment to SUBCONTRACTORS for material or labor, or to persistently disregard laws, ordinances, or to prosecute the work in conformance with the Contract Documents, or otherwise be guilty of a substantial violation of any provision of the Contract or any laws or ordinance, then the OWNER may, without prejudice to any other right or remedy, and after giving the CONTRACTOR and Surety 10 days' written notice, transfer the employment for said work from the CONTRACTOR to the Surety. Upon receipt of such notice, such Surety shall enter upon the premises and take possession of all materials, tools, and appliances thereon for the purpose of completing the work included under this Contract and employ by Contract or otherwise, any qualified person or persons to finish the work and provide the materials therefore, in accordance with the Contract Documents, without termination of the continuing full force and effect of this Contract. In case of such transfer of employment to such Surety, the Surety shall be paid in its own name on estimates according to the terms hereof without any right of the CONTRACTOR to make any claim for the same or any part thereof.

If, after the furnishing of said written notice to the Surety, the CONTRACTOR and the Surety still fail to make reasonable progress on the performance of the work, the OWNER may terminate the employment of the CONTRACTOR and take possession of the premises and



of all materials, tools, and appliances thereon and finish the work by whatever method he may deem expedient and charge the cost thereof to the CONTRACTOR and the Surety. In such case, the CONTRACTOR shall not be entitled to receive any further payment until the work is finished. If the expense of completing the Contract, including compensation for additional managerial and administrative services, shall exceed such unpaid balance, the CONTRACTOR and the Surety shall pay the difference to the OWNER.

#### **58. DELAYS AND EXTENSION OF TIME**

If the CONTRACTOR is delayed in the progress of the work by any act or neglect of the OWNER or the ENGINEER, or by any separate CONTRACTOR employed by the OWNER, or by strikes, lockouts, fire, adverse weather conditions not reasonably anticipated, or acts of Nature, and if the CONTRACTOR, within 48 hours of the start of the occurrence, gives written notice to the OWNER of the cause of the potential delay and estimate of the possible time extension involved, and within 10 days after the cause of the delay has been remedied, the CONTRACTOR gives written notice to the OWNER of any actual time extension requested as a result of the aforementioned occurrence, then the Contract time may be extended by change order for such reasonable time as the ENGINEER determines. It is agreed that no claim shall be made or allowed for any damages, loss, or expense which may arise out of any delay caused by the above referenced acts or occurrences other than claims for the appropriate extension of time.

No extension of time will be granted to the CONTRACTOR for delays occurring to parts of the work that have no measurable impact on the completion of the total work under this Contract. No extension of time will be considered for weather conditions reasonably anticipated for the area in which the work is being performed. Reasonably anticipated weather conditions will be based on official records of monthly precipitation and other historical data. Adverse weather conditions, if determined to be of a severity that would impact progress of the work, may be considered as cause for an extension of Contract completion time.

Delays in delivery of equipment or material purchased by the CONTRACTOR or his SUBCONTRACTORS, including OWNER-selected equipment shall not be considered as a just cause for delay, unless the OWNER determines that for good cause the delay is beyond the control of the CONTRACTOR. The CONTRACTOR shall be fully responsible for the timely ordering, scheduling, expediting, delivery, and installation of all

equipment and materials.

Within a reasonable period after the Contractor submits to the Owner a written request for an extension of time, the Engineer will present his written opinion to the Owner as to whether an extension of time is justified, and, if so, his recommendation as to the number of days for time extension. The Owner will make the final decision on all requests for extension of time.

#### **59. DIFFERING SITE CONDITIONS**

The CONTRACTOR shall promptly, and before the conditions are disturbed, give a written notice to the OWNER and ENGINEER of:

- A. Subsurface or latent physical conditions at the site which differ materially from those indicated in this contract,
- B. Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

The ENGINEER will investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the CONTRACTOR's cost of, or the time required for, performing any part of the work under this Contract, whether or not changed as a result of the conditions, and equitable adjustment shall be made under this Article and the Contract modified in writing accordingly.

No request by the CONTRACTOR for an equitable adjustment to the Contract under this Article will be allowed, unless the CONTRACTOR has given the written notice required; provided that the time prescribed above for giving written notice may be extended by the OWNER.

No request by the CONTRACTOR for an equitable adjustment to the Contract for differing site conditions will be allowed if made after final payment under this Contract.

#### **60. LIQUIDATED DAMAGES**

Should the CONTRACTOR fail to complete the work, or any part thereof, in the time agreed upon in the Contract or within such extra time as may have been allowed for delays by extensions granted as provided in the Contract, the CONTRACTOR shall reimburse the OWNER for the additional expense and damage for each calendar day,

Sundays and legal holidays included, that the Contract remains uncompleted after the Contract completion date. It is agreed that the amount of such additional expense and damage incurred by reason of failure to complete the work is the per-diem rate, as stipulated in the Bid. The said amount is hereby agreed upon as a reasonable estimate of the costs which may be accrued by the OWNER after the expiration of the time of completion. It is expressly understood and agreed that this amount is not to be considered in the nature of a penalty, but as liquidated damages which have accrued against the CONTRACTOR. The OWNER shall have the right to deduct such damages from any amount due, or that may become due the CONTRACTOR, or the amount of such damages shall be due and collectible from the CONTRACTOR or Surety.

#### **61. OTHER CONTRACTS**

The OWNER reserves the right to let other Contracts in connection with the 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 theirs.

If any part of the work under this Contract depends for proper execution or results upon the work of any other CONTRACTOR, utility service company or OWNER, the CONTRACTOR shall inspect and promptly report to the ENGINEER in writing any patent or apparent defects to deficiencies in such work that render it unsuitable for such proper execution and results. The CONTRACTOR's failure to so report shall constitute acceptance of the work by others as being fit and proper for integration with work under this Contract, except for latent or non-apparent defects and deficiencies in the work.

#### **62. USE OF PREMISES**

The CONTRACTOR shall confine his equipment, the storage of materials and the operation of his workers to limits shown on the Drawings or indicated by law, ordinances, permits, or directions of the ENGINEER, and shall not unreasonably encumber the premises with his materials. The CONTRACTOR shall provide, at his own expense, the necessary rights-of-way and access to the work, which may be required outside the limits of the OWNER's property and shall furnish the ENGINEER copies of permits and agreements for use of the property outside that provided by the OWNER.

The CONTRACTOR shall not load nor permit any part of the structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part

of the work or adjacent property to stresses or pressures that will endanger it.

#### **63. SUBSTANTIAL COMPLETION DATE**

The ENGINEER may issue a written notice of substantial completion for the purpose of establishing the starting date for specific equipment guarantees, and to establish the date that the OWNER will assume the responsibility for the cost of operating such equipment. Said notice shall not be considered as final acceptance of any portion of the work or relieve the CONTRACTOR from completing the remaining work within the specified time and in full compliance with the Contract Documents. See SUBSTANTIAL COMPLETION under DEFINITIONS of these General Conditions.

#### **64. PERFORMANCE TESTING**

Operating equipment and systems shall be performance tested in the presence of the ENGINEER to demonstrate compliance with the specified requirements. Performance testing shall be conducted under the specified design operating conditions or under such simulated operating conditions as recommended or approved by the ENGINEER. Schedule such testing with the ENGINEER at least one week in advance of the planned date for testing.

#### **65. OWNER'S USE OF PORTIONS OF THE WORK**

Following issuance of the written notice of Substantial Completion, the OWNER may initiate operation of the facility. Such use shall not be considered as final acceptance of any portion of the work, nor shall such use be considered as cause for an extension of the Contract completion time, unless authorized by a Change Order issued by the OWNER.

#### **66. CUTTING AND PATCHING**

The CONTRACTOR shall do all cutting, fitting, or patching of his work that may be required to make its several parts come together properly and fit it to receive or be received by work of other CONTRACTORS shown upon or reasonably implied by the Drawings.

#### **67. CLEANING UP**

The CONTRACTOR shall, at all times, keep property on which work is in progress and the adjacent property free from accumulations of waste material or rubbish caused by employees or by the work. Upon completion of the

construction, the CONTRACTOR shall remove all temporary structures, rubbish, and waste materials resulting from his operations.

## **PAYMENT**

### **68. PAYMENT FOR CHANGE ORDERS**

The OWNER's request for quotations on alterations to the work shall not be considered authorization to proceed with the work prior to the issuance of a formal Change Order, nor shall such a request justify any delay in existing work. Quotations for alterations to the work shall include substantiating documentation with an itemized breakdown of CONTRACTOR and SUBCONTRACTOR costs, including labor, material, rentals, approved services, overhead, and profit. OWNER may require detailed cost data in order to substantiate the reasonableness of the proposed costs.

Any compensation paid in conjunction with the terms of a Change Order shall comprise total compensation due the CONTRACTOR for the work or alteration defined in the Change Order. By signing the Change Order, the CONTRACTOR acknowledges that the stipulated compensation includes payment for the work or alteration plus all payment for the interruption of schedules, 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 Change Order.

At the OWNER's option, payment or credit for any alterations covered by a Change Order shall be determined by one or a combination of the methods set forth in A, B, or C below, as applicable:

#### **A. UNIT PRICES**

Those unit prices stipulated in the Bid shall be utilized where they are applicable. In the event the Change Order results in a change in the original quantity that is materially and significantly different from the original bid quantity, a new unit price shall be negotiated upon demand of either party. Unit prices for new items included in the Change Order shall be negotiated and mutually agreed upon.

#### **B. LUMP SUM**

A total lump sum for the work negotiated and mutually acceptable to the CONTRACTOR and the OWNER.

Lump sum quotations for modifications to the work shall

include substantiating documentation with an itemized breakdown of CONTRACTOR and SUBCONTRACTOR costs, including labor, material, rentals, approved services, overhead, and profit, all calculated as specified under "C" below.

### **C. COST REIMBURSEMENT WORK**

The term "cost reimbursement" shall be understood to mean that payment for the work will be made on a time and expense basis, that is, on an accounting of the CONTRACTOR's forces, materials, equipment, and other items of cost as required and used to do the work.

If the method of payment cannot be agreed upon prior to the beginning of the work, and the OWNER directs by written Change Order that the work be done on a cost reimbursement basis, then the CONTRACTOR shall furnish labor, and furnish and install equipment and materials necessary to complete the work in a satisfactory manner and within a reasonable period of time. For the work performed, payment will be made for the documented actual cost of the following:

1. Labor including foremen for those hours they are assigned and participating in the cost reimbursement work (actual payroll cost, including wages, fringe benefits as established by negotiated labor agreements, labor insurance, and labor taxes as established by law). No other fixed labor burdens will be considered, unless approved in writing by the OWNER.
2. Material delivered and used on the designated work, including sales tax, if paid by the CONTRACTOR or his SUBCONTRACTOR.
3. Rental or equivalent rental cost of equipment, including necessary transportation for items having a value in excess of \$100.

Rental or equivalent rental cost will be allowed for only those days or hours during which the equipment is in actual use. Rental and transportation allowances shall not exceed the current rental rates prevailing in the locality. The rentals allowed for equipment will, in all cases, be understood to cover all fuel, supplies, repairs, and renewals, and no further allowances will be made for those items, unless specific agreement to that effect is made.

4. Additional bond, as required and approved by the OWNER.
5. Additional insurance (other than labor insurance) as required and approved by the OWNER.

In addition to items 1 through 5 above, an added fixed fee for general overhead and profit shall be negotiated and allowed for the CONTRACTOR (or approved SUBCONTRACTOR) actually executing the Cost Reimbursement work.

An additional fixed fee shall be negotiated and allowed the CONTRACTOR for the administrative handling of portions of the work that are executed by an approved SUBCONTRACTOR. No additional fixed fee will be allowed for the administrative handling of work executed by a SUBCONTRACTOR of a SUBCONTRACTOR, unless by written permission from the OWNER.

The added fixed fees shall be considered to be full compensation, covering the cost of general supervision, overhead, profit, and any other general expense. The CONTRACTOR's records shall make clear distinction between the direct costs of work paid for on a cost reimbursement basis and the costs of other work. The CONTRACTOR shall furnish the ENGINEER report sheets in duplicate of each day's cost reimbursement work no later than the working day following the performance of said work. The daily report sheets shall itemize the materials used, and shall cover the direct cost of labor and the charges for equipment rental, whether furnished by the CONTRACTOR, SUBCONTRACTOR or other forces. The daily report sheets shall provide names or identifications and classifications of workers, the hourly rate of pay and hours worked, and also the size, type, and identification number of equipment and hours operated.

Material charges shall be substantiated by valid copies of vendors' invoices. Such invoices shall be submitted with the daily report sheets, or, if not available, they shall be submitted with subsequent daily report sheets. Said daily report sheets shall be signed by the CONTRACTOR or his authorized agent.

The OWNER reserves the right to furnish such materials and equipment as he deems expedient and the CONTRACTOR shall have no claim for profit or added fees on the cost of such materials and equipment. To receive partial payments and final payment for cost reimbursement work, the CONTRACTOR shall submit to the ENGINEER, detailed and complete documented verification of the CONTRACTOR's and any of his SUBCONTRACTORS' actual costs involved in the cost reimbursement work. Such costs shall be submitted within 30 days after said work has been performed.

## **69. PARTIAL PAYMENTS**

### **A. GENERAL**

Nothing in this Article shall be construed to affect the right, hereby reserved, to reject the whole or any part of the aforesaid work, should such work be later found not to comply with the provisions of the Contract Documents. All estimated quantities of work for which partial payments have been made are subject to review and correction on the final estimate. Payment by the OWNER and acceptance by the CONTRACTOR of partial payments based on periodic estimates of quantities of work performed shall not, in any way, constitute acceptance of the estimated quantities used as a basis for computing the amounts of the partial payments.

### **B. ESTIMATE**

At least 30 days before each progress payment falls due, as specified in the Supplementary Conditions, the CONTRACTOR shall submit to the ENGINEER a detailed estimate of the amount earned during the preceding month for the separate portions of the work, and request payment. As used in this Article, the words "amount earned" means the value, on the date of the estimate for partial payment, of the work completed in accordance with the Contract Documents, and the value of approved materials delivered to the project site suitable stored and protected prior to incorporation into the work.

ENGINEER will, within 7 days after receipt of each request for payment, either indicate in writing a recommendation of payment or present the request to OWNER, or return the request to CONTRACTOR indicating in writing ENGINEER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may, within 7 days, make the necessary corrections and resubmit the request.

ENGINEER may refuse to recommend the whole or any part of any payment if, in his opinion, it would be incorrect to make such representations to OWNER. ENGINEER may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended to such an extent as may be necessary in ENGINEER's opinion to protect the OWNER from loss because:

1. The work is defective, or completed work has been damaged requiring correction or replacement;
2. Written claims have been made against OWNER or Liens have been filed in connection with the work;

3. The Contract Price has been reduced because of Change Orders;
4. OWNER has been required to correct defective work or complete the work in accordance with Article OWNER'S RIGHT TO DO WORK;
5. Of CONTRACTOR's unsatisfactory prosecution of the work in accordance with the Contract Documents; or
6. CONTRACTOR's failure to make payment to SUBCONTRACTORS or for labor, materials, or equipment.

#### **C. DEDUCTION FROM ESTIMATE**

Unless modified in the Supplementary Conditions, deductions from the estimate will be as described below:

1. The OWNER will deduct from the estimate, and retain as part security, 10 percent of the amount earned for work satisfactorily completed. A deduction and retainage of 10 percent will be made on the estimated amount earned for approved items of material delivered to and properly stored at the jobsite but not incorporated into the work. When the work is 50 percent complete, the OWNER may reduce the retainage to 5 percent of the dollar value of all work satisfactorily completed to date provided the CONTRACTOR is making satisfactory progress and there is no specific cause for a greater retainage. The OWNER may reinstate the retainage up to 10 percent if the OWNER determines, at his discretion, that the CONTRACTOR is not making satisfactory progress or where there is other specific cause for such withholding.

#### **D. QUALIFICATION FOR PARTIAL PAYMENT FOR MATERIALS DELIVERED**

Unless modified in the Supplementary Conditions, qualification for partial payment for materials delivered but not yet incorporated into the work shall be as described below:

1. Materials, as used herein, shall be considered to be those items which are fabricated and manufactured material and equipment. No consideration shall be given to individual purchases of less than \$200 for any one item.

2. To receive partial payment for materials delivered to the site, but not incorporated in the work, it shall be necessary for the CONTRACTOR to include a list of such materials on the Partial Payment Request. At his sole discretion, the ENGINEER may approve items for which partial payment is to be made. Partial payment shall be based on the CONTRACTOR's actual cost for the materials as evidenced by invoices from the supplier. Proper storage and protection shall be provided by the CONTRACTOR, and as approved by the ENGINEER. Final payment shall be made only for materials actually incorporated in the work and, upon acceptance of the work, all materials remaining for which advance payments had been made shall revert to the CONTRACTOR, unless otherwise agreed, and partial payments made for these items shall be deducted from the final payment for the work.

3. CONTRACTOR warrants and guarantees that title to all work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER at the time of payment free and clear of all liens, claims, security interests, and encumbrances.
4. If requested by the ENGINEER, the CONTRACTOR shall provide, with subsequent pay requests, invoices receipted by the supplier showing payment in full has been made.

#### **E. PAYMENT**

After deducting the retainage and the amount of all previous partial payments made to the CONTRACTOR from the amount earned, the amount due will be made payable to the CONTRACTOR. Recommendations for payment received by the OWNER less than 9 days prior to the scheduled day for payment will not be processed or paid until the following month.

#### **70. CLAIMS FOR EXTRA WORK**

In any case where the CONTRACTOR deems additional time or compensation will become due him under this Contract for circumstances other than those defined in Article DELAYS AND EXTENSION OF TIME, the CONTRACTOR shall notify the ENGINEER, in writing, of his intention to make claim for such time or compensation before he begins the work on which he bases the claim, in order that such matters may be settled, if possible, or other appropriate action taken. The notice

of claim shall be in duplicate, in writing, and shall state the circumstances and the reasons for the claim, but need not state the amount. If such notification is not given or if the ENGINEER is not afforded proper facilities by the CONTRACTOR for keeping strict account of actual cost, then the CONTRACTOR hereby agrees to waive the claim for such additional time or compensation. Such notice by the CONTRACTOR, and fact that the ENGINEER has kept account of the cost as aforesaid, shall not in any way be construed as proving the validity of the claim.

No extension of time will be granted to the CONTRACTOR for delays resulting from extra work that have no measurable impact on the completion of the total Work under this Contract. Claims for additional time or compensation shall be made in itemized detail and submitted, in writing, to the OWNER and ENGINEER within 10 days following completion of that portion of the work for which the CONTRACTOR bases his claim. Failure to make the claim for additional compensation in the manner and within the time specified above shall constitute waiver of that claim. In case the claim is found to be just, it shall be allowed and paid for as provided in Article PAYMENT FOR CHANGE ORDERS.

#### **71. RELEASE OF LIENS OR CLAIMS**

The CONTRACTOR shall indemnify and hold harmless the OWNER from all claims for labor and materials furnished under this Contract. Prior to the final payment, the CONTRACTOR shall furnish to the OWNER, as part of his final payment request, a certification that all of the CONTRACTOR's obligations on the Project have been satisfied and that all monetary claims and indebtedness have been paid. The CONTRACTOR shall furnish complete and legal effective releases or waivers, satisfactory to the OWNER, of all liens arising out of or filed in connection with the work.

#### **72. FINAL PAYMENT**

Upon completion of all the work under this Contract, the CONTRACTOR shall notify the ENGINEER, in writing, that he has completed his part of the Contract and shall request final payment. Upon receipt of such notice the ENGINEER will inspect and, if acceptable, submit to the OWNER his recommendation as to acceptance of the completed work and as to the final estimate of the amount due the CONTRACTOR. Upon approval of this final estimate by the OWNER and compliance by the CONTRACTOR with provisions in Article RELEASE OF LIENS OR CLAIMS, and other provisions as may be applicable, the OWNER shall pay to the CONTRACTOR

all monies due him under the provisions of these Contract Documents.

#### **73. NO WAIVER OF RIGHTS**

Neither the inspection by the OWNER, through the ENGINEER or any of his employees, nor any order by the OWNER for payment of money, nor any payment for, or acceptance of, the whole or any part of the work by the OWNER or ENGINEER, nor any extension of time, nor any possession taken by the OWNER or its employees, shall operate as a waiver of any provision of this Contract, or any power herein reserved to the OWNER, or any right to damages herein provided, nor shall any waiver of any breach in this Contract be held to be a waiver of any other or subsequent breach. Acceptance or final payment shall not be final and conclusive with regards to latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the OWNER's rights under the warranty.

#### **74. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE**

The acceptance by the CONTRACTOR of the final payment shall release the OWNER and the ENGINEER, as representatives of the OWNER, from all claims and all liability to the CONTRACTOR for all things done or furnished in connection with the work, and every act of the OWNER and others relating to or arising out of the work except claims previously made in writing and still unsettled. No payment, however, final or otherwise, shall operate to release the CONTRACTOR or his Sureties from obligations under this Contract and the Performance Bond, Payment Bond, and other bonds and warranties, as herein provided.

## SUPPLEMENTARY CONDITIONS

The General Conditions are hereby revised as follows:

### ARTICLE 9 "ENGINEER"

Add the following:

Wherever in these Documents the word "Engineer" appears, it shall be understood to mean the City of Key West, Director, Utilities or City Engineer or authorized representatives.

### ARTICLE 12 "OWNER"

Add the following:

Wherever in these Documents the word "Owner" appears, it shall be understood to mean the City of Key West whose address is 1300 White Street, Key West, Florida 33040.

### ARTICLE 32 "CONTRACTOR, AN INDEPENDENT AGENT"

Add the following:

Assignment of any part or the whole of this Contract shall be subject to review and approval of the City Commission.

### ARTICLE 34 "INSURANCE AND LIABILITY"

Remove the following:

E. Builders Risk All Risk Insurance

## **DRAWINGS**



FLEMING KEY UTILITY BRIDGE OVER  
GARRISON BRIGHT PERMANENT REPAIR  
(ADJACENT TO BRIDGE NO. 1FL1322)

SHEET NO.	SHEET DESCRIPTION
	<b>INDEX OF ROADWAY PLANS</b>

1 KEY SHEET  
2 GENERAL NOTES  
3 AERIAL MAP AND CONSTRUCTION SEQUENCE NOTES  
4 PILE INSTALLATION  
5 PLAN VIEW  
6 7 ELEVATION VIEW  
8 9 PILE CAP DETAILS

**CONSULTANT PROJECT MANAGER:**

**ARTIBUS DESIGN**  
ENGINEERING AND PLANNING

SERGE NASHTAKOV, P.E.  
 3706 N. ROOSEVELT BLVD, SUITE 1-208  
 KEY WEST, FL 33040  
 T: (305) 304-3512  
 E: SERGE@ARTIDUSDESIGN.COM  
 WWW.ARTIDUSDESIGN.COM

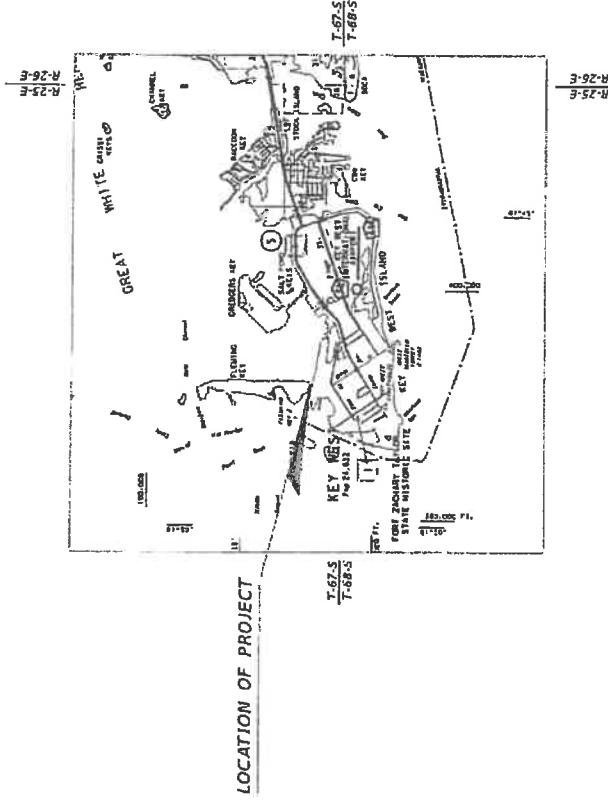
**GOVERNING STANDARD PLANS:**

*Florida Department of Transportation, FY2019-20 Standard Plans for Road and Bridge Construction and applicable Interim Revisions (IRs).*

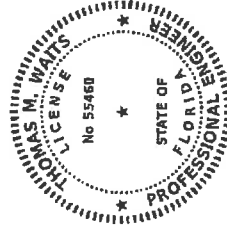
Standard Plans for Road Construction and associated IRs are available at the following website: <http://www.fdot.gov/design/standardplans>

### GOVERNING STANDARD SPECIFICATIONS:

Florida Department of Transportation, July 2019 Standard Specifications for Road and Bridge Construction at the following website: <http://www.fdot.gov/programmanagement/implemented/SpecBooks>



LOCATION OF PROJECT



THIS ITEM HAS BEEN DIGITALLY  
SIGNED AND SEALED BY

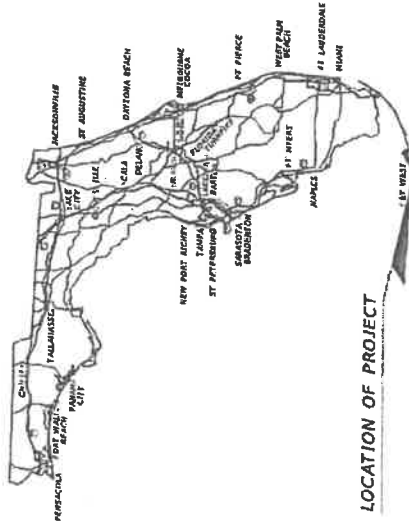
ON THE DATE ADJACENT TO THE SEAL  
PRINTED COPIES OF THIS DOCUMENT ARE  
NOT CONSIDERED SIGNED AND SEALED  
AND THE SIGNATURE MUST BE VERIFIED  
ON ANY ELECTRONIC COPIES.

## ROADWAY PLANS

**ENGINEER OF RECORD:**  
THOMAS M. WAITS, P.E.  
P.E. NO.: 55460  
HIGHSPANS ENGINEERING, INC.  
2121 MCGREGOR BLVD.  
SUITE 200  
FORT MYERS, FL 33901  
REGISTRY NO. 27559

**CITY OF KEY WEST  
PROJECT MANAGER:**

**JOHN CASTRO**



LOCATION OF PROJECT

FISCAL YEAR	20
SHEET NO.	1

### A. DESIGN SPECIFICATIONS

### A. DESIGN SPECIFICATIONS

1. AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) LOAD AND RESISTANCE FACTOR DESIGN (LRFD) BRIDGE DESIGN SPECIFICATIONS, 6TH EDITION AND ALL SUBSEQUENT INTERIMS.
2. ACSE/SEI (7-16) MINIMUM DESIGN LOADS AND ASSOCIATED CRITERIA FOR BUILDING AND OTHER STRUCTURES.
3. AMERICAN CONCRETE INSTITUTE (ACI 318-14), AND ALL SUBSEQUENT INTERIMS.

## 8. CONSTRUCTION SPECIFICATIONS

DDOT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION (2019) WITH AMENDMENTS AS PROVIDED WITH THESE CONTRACT DOCUMENTS.

### C. ENVIRONMENT

BRIDGE	SUBSTRUCTURE		SUBSTRUCTURE	
	CONCRETE	STEEL	CONCRETE	STEEL
FLEMING KEY UTILITY BRIDGE	EXTREMELY	EXTREMELY	EXTREMELY	EXTREMELY

## D. DESIGN METHODOLOGY

## 2. DESIGN METHODOLOGY

### E. STRUCTURAL ANALYSIS PROGRAM

FB-MULTIPLIER v5.4, Nov. 2018

## F. DESIGN LOADINGS

1. LIVE LOADS: N/A  
2. DEAD LOADS: 150 PCF  
3. WIND LOAD - APPLIED IN ACCORDANCE WITH ASCE/SEI 7-16, RISK CATEGORY 4, VUR: 200 MPH

## 5. MATERIALS

1. REINFORCING STEEL: ASTM A1035 GRADE 100, CHROMX 9100

FOOT CONCRETE CLASS	MIN. 28-DAY COMPRESSIVE STRENGTH (PSI)	LOCATION OF CONCRETE IN STRUCTURE
IV	5000	C.I.P.
SEE SPEC 455-38	5000	14" AUGER CAST GROUTED PILE

### 3. CONCRETE COVER:

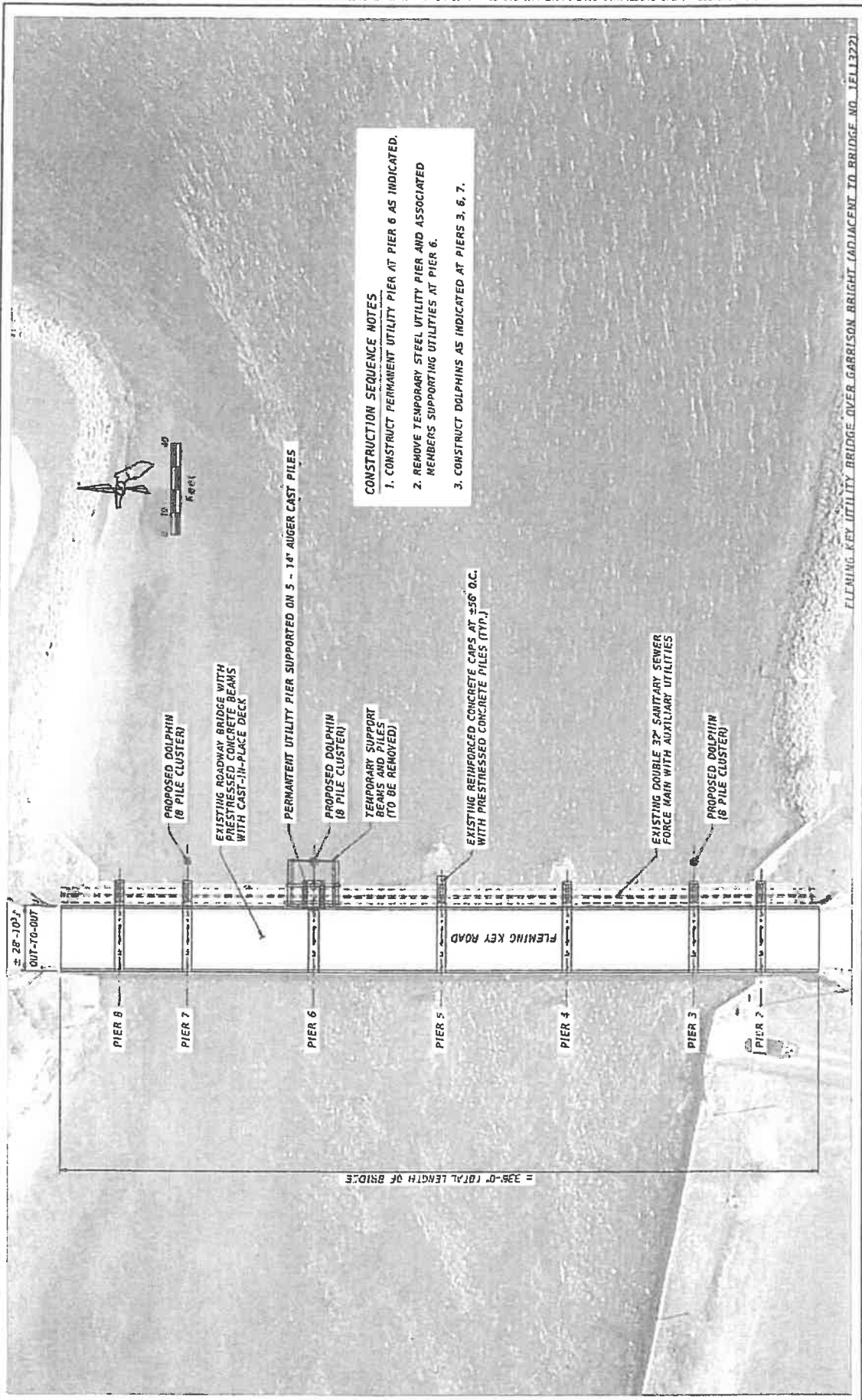
<p> <input type="checkbox"/> <b>CAST-IN-PLACE SUBSTRUCTURE (FORMED SURFACES)</b> </p>	<p> <input type="checkbox"/> <b>3"</b> </p>
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CONCRETE COVER DIMENSIONS SHOWN IN THE PLANS DO NOT INCLUDE PLACEMENT AND FABRICATION TOLERANCES UNLESS SHOWN AS "MINIMUM COVER". SEE SPECIFICATIONS SECTION 415 FOR ALLOWABLE TOLERANCES. ALL DIMENSIONS PERTAINING TO THE LOCATION OF REINFORCING STEEL ARE TO CENTERLINE OF BAR EXCEPT WHERE CLEAR DIMENSION IS NOTED TO FACE OF CONCRETE.

4. ACP STEEL PIPE CASING: ASTM A252 GR.3 STEEL PIPE (MIN. THICKNESS  $\frac{3}{8}$ " )
5. HOPE PILE SLEEVE: ECOCAST HOPE MARINE PILE SLEEVING (MIN. WALL = 0.25") OR APPROVED EQUAL
6. STEEL PILE COATING: 16 mil CTE SHERWIN WILLIAMS TARGUARD
7. TIMBER PILING: NO. 2 SOUTHERN YELLOW PINE TREATED WITH 0.40# AOR CCA

FLEMMING KEY UTILITY BRIDGE OVER GARRISON BRIDGE (ADJACENT TO BRIDGE NO. IFL1322)

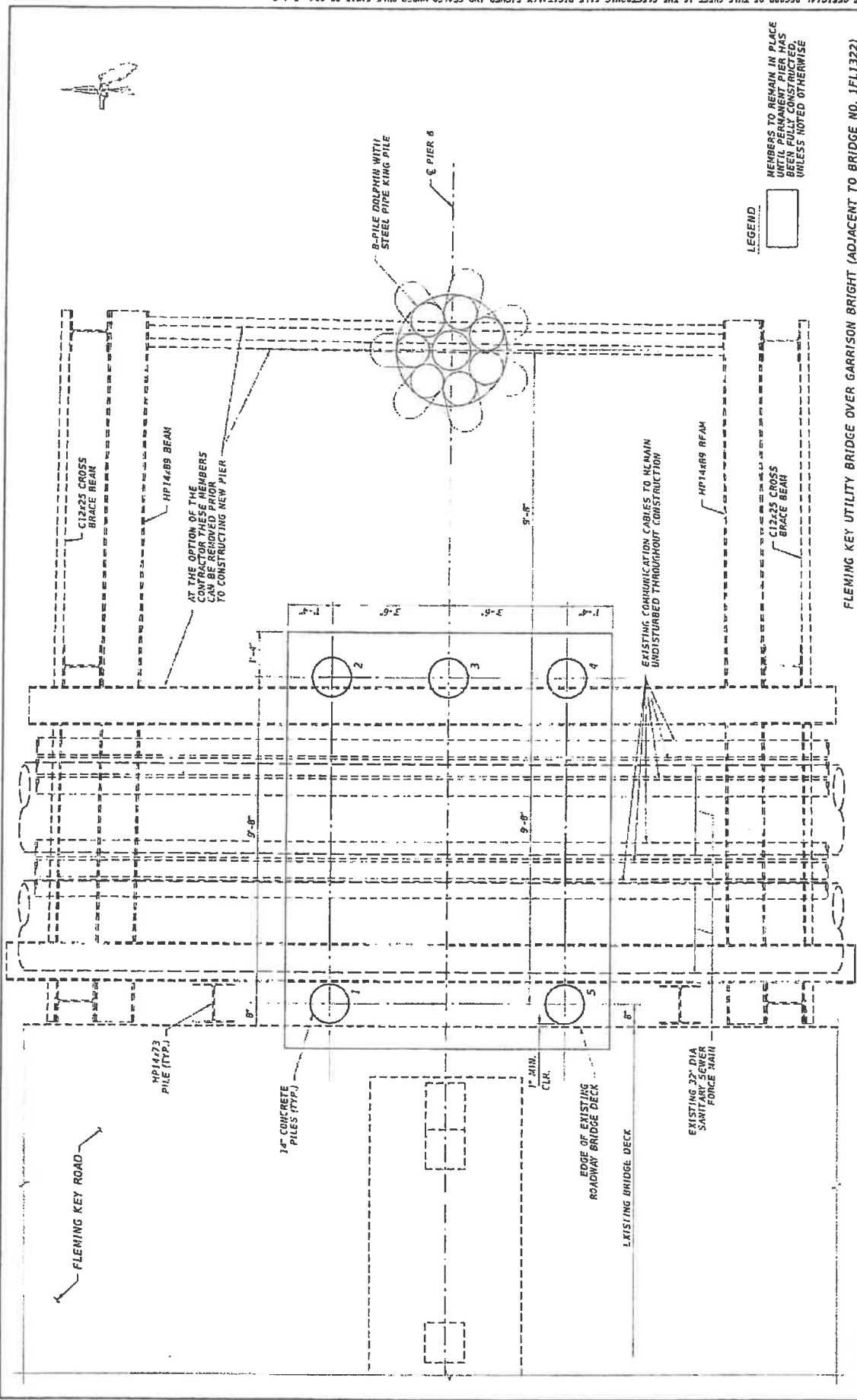
[illegible]



- CONSTRUCTION SEQUENCE NOTES**
1. CONSTRUCT PERMANENT UTILITY PIER AT PIER 6 AS INDICATED.
  2. REMOVE TEMPORARY STEEL UTILITY PIER AND ASSOCIATED MEMBERS SUPPORTING UTILITIES AT PIER 6.
  3. CONSTRUCT DOLPHINS AS INDICATED AT PIERS 3, 6, 7.

<b>REVISIONS</b> 1. 12/12/2018 2. 12/12/2018 3. 12/12/2018		<b>CONSULTANT PROJECT MANAGER:</b> ARTIBUS DESIGN 3706 N. PROGRESS BLVD., SUITE 100 KEY WEST, FL 33540 P: 305.868.1800 E: INFO@ARTIBUSDESIGN.COM WWW.ARTIBUSDESIGN.COM		<b>DESIGNER:</b> THOMAS M. WAITS, P.E. P.E. LICENSE NUMBER 65480 HICKSPANS ENGINEERING, INC. 2131 MCCLEGGOR BOULEVARD FORT MYERS, FL 33901 REGISTRY NO. 27589		<b>CITY OF KEY WEST</b> COUNTY: MONROE ROAD NO.: 100'S PROJECT ID: 100'S		<b>AERIAL MAP AND CONSTRUCTION SEQUENCE NOTES</b> PROJECT NAME: FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR		SHEET NO.: 7
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MEMBERS TO REMAIN IN PLACE UNTIL PERMANENT PIER HAS BEEN FULLY CONSTRUCTED, UNLESS NOTED OTHERWISE

LEGEND



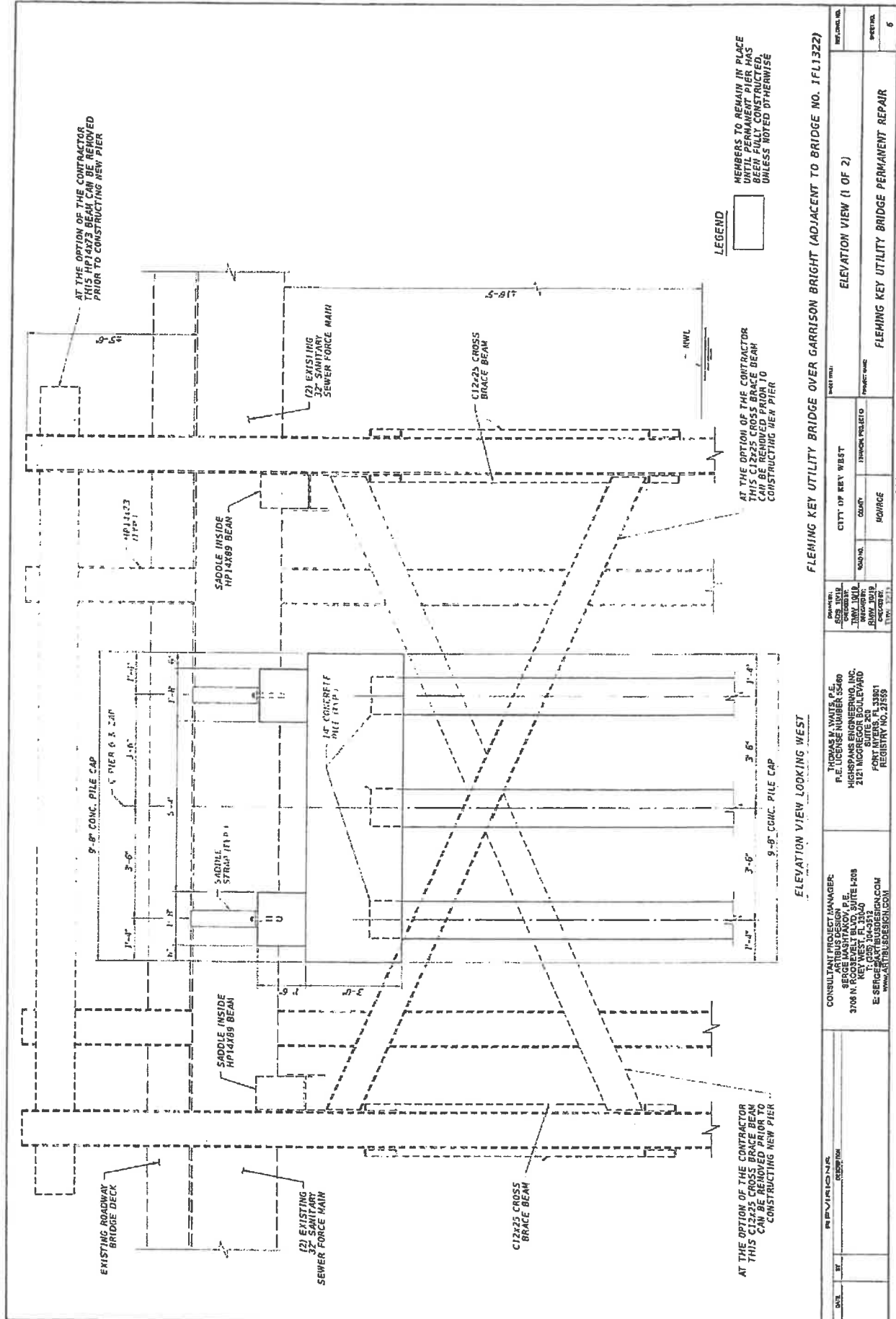
FLEMING KEY UTILITY BRIDGE OVER GARRISON BRIGHT (ADJACENT TO BRIDGE NO. 1FL1322)

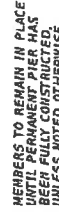
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1/21/2019	5	FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR	5
DESIGNED BY	CITY OF KEY WEST	PROJECT NO.	12182019
CHECKED BY	COUNTY	PROJECT NAME	FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR
APPROVED BY	ENGINEER	PROJECT NO.	12182019
DATE	1/21/2019	PROJECT NAME	FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR
DESIGNED BY	CITY OF KEY WEST	PROJECT NO.	12182019
CHECKED BY	COUNTY	PROJECT NAME	FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR
APPROVED BY	ENGINEER	PROJECT NO.	12182019
DATE	1/21/2019	PROJECT NAME	FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR

CONSULTANT PROJECT MANAGER:  
SERGE ARTIBUS DESIGN  
3705 N. N. HIGHWAY  
KEY WEST, FL 33040  
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E: SERGE@ARTIBUSDESIGN.COM  
WWW.ARTIBUSDESIGN.COM

THOMAS J. WHITE, P.E.  
P.E. LICENSE NUMBER: 55460  
HIGHSPAN ENGINEERING, INC.  
2121 MCGREGOR BOULEVARD  
SUITE 200  
FORT MYERS, FL 33901  
REGISTRY NO. 31891

DATE: 1/21/2019  
TIME: 10:12 AM  
SHEET: 5





ELEVATION VIEW LOOKING NORTH

## LEGEND

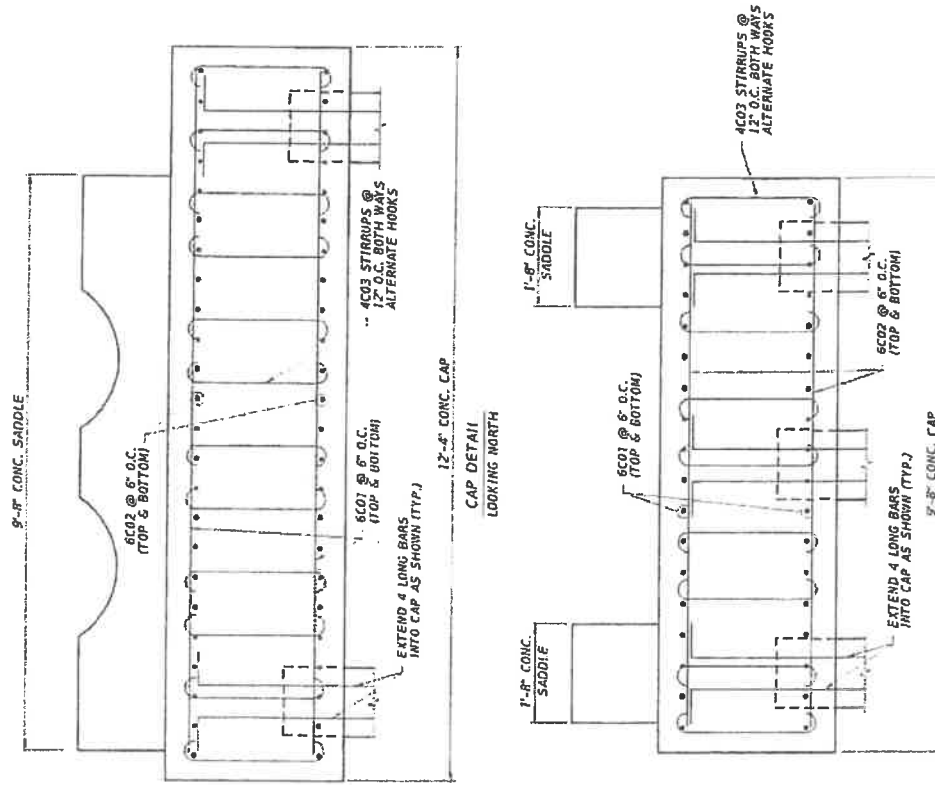
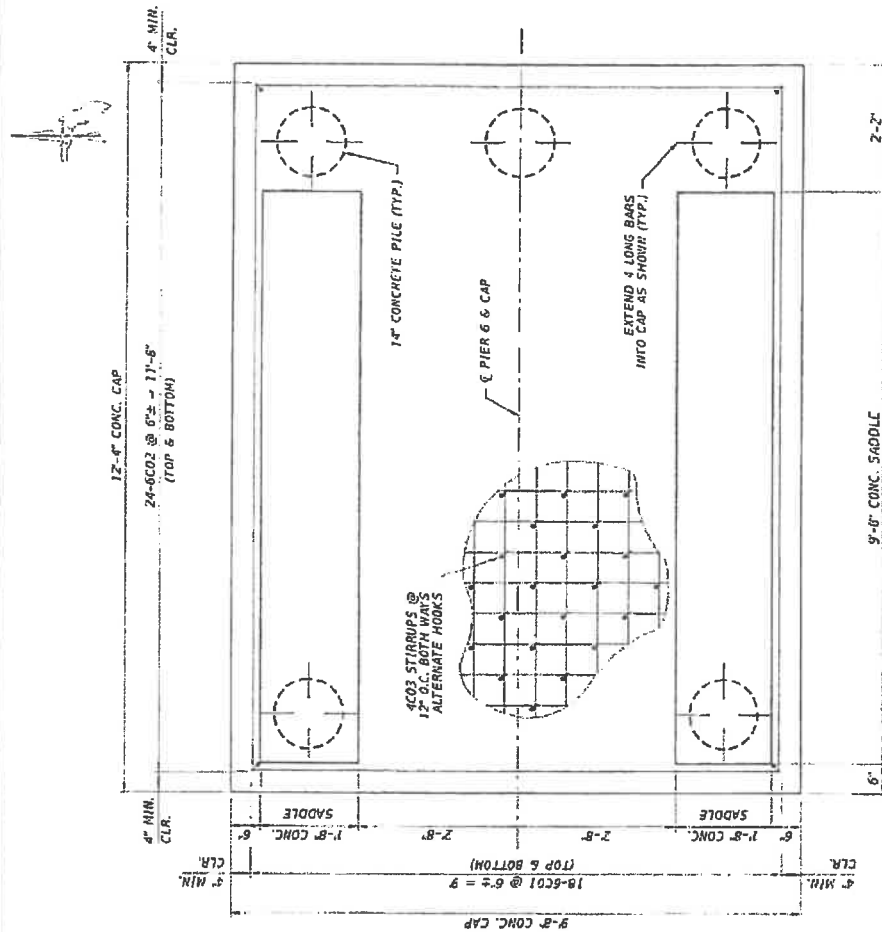
MEMBERS TO REMAIN IN PLACE UNTIL PERMANENT PIER HAS BEEN FULLY CONSTRUCTED. UNLESS NOTED OTHERWISE.

FLEMING KEY UTILITY BRIDGE OVER GARRISON BRIGHT (ADJACENT TO BRIDGE NO. 1FLJ1322)

DNA	#		PREVIOUS CONNO	DESCRIPTION		SHEET NO.	ELEVATION VIEW (2 OF 2)	KEY PLAN	BEST NO.	7
CONSULTANT PROJECT MANAGER: ANTHONY L. SOKO SERGE MASHKAROV, P.E. 3708 N. ROOSEVELT BLVD., SUITE 1208 KEY WEST, FL 33940 TEL: (305) 304-3572 WWW.ANTDESIGN.COM						THOMAS M. WATTS, P.E. P.C. LICENSE NUMBER 35440 S.M. ENGINEERING, INC. 2131 MCGREGOR BOULEVARD KEY WEST, FL 33940 REGISTRY NO. 27559		CITY OF KEY WEST COUNTY FLORIDA	FRENCH ROAD ID ADDRESS	
						DATE 11/01/18	PROJECT NAME FLEWING KEY UTILITY BRIDGE PERMANENT REPAIR			





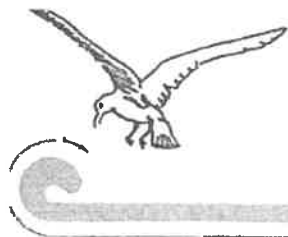


**CAP DETAIL**  
**LOOKING WEST**

FLEWING KEY UTILITY BRIDGE OVER GARRISON BRIGHT (ADJACENT TO BRIDGE NO. 1FL1322)

REVISED		DATE		BY	DESCRIPTION	
					CONSULTANT PROJECT MANAGER ARTTHUS DESIGN 3708 N. ROOSEVELT BLVD, SUITE 228 KENNESAW, GA 30144 T: (903) 394-3312 E: SERGE@ARTTHUSDESIGN.COM WWW.ARTTHUSDESIGN.COM	
					THOMAS J. VAITS, P.E. P.L. LICENSE NUMBER 55460 HARRISON ENGINEERING, INC. 2121 MAGDOORE BOULEVARD SUITE 200 FORT MYERS, FL 33901 REGISTRY NO. 27359	
DRAWING		SHEET NO.		SHEET TOTAL		
DATE		BY		DESCRIPTION		
12/19/2019		1		PILE CAP DETAILS (2 OF 2)		
12/19/2019		2		FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR		
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12/19/2019		94		FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR		
12/19/2019		95		FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR		
12/19/2019		96		FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR		
12/19/2019		97		FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR		
12/19/2019		98		FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR		
12/19/2019		99		FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR		
12/19/2019		100		FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR		

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.



# EBSARY

foundation company

MARINE AND ENGINEERING CONSTRUCTION

2154 N.W. North River Drive, Miami, Florida 33125-2297

Ofc. (305) 325-0530 • CC# E-502 • Fax (305) 325-8684

December 19, 2019

City of Key West  
201 William Street  
Key West, FL 33040

Attn: John Paul Castro

**RE: FLEMING KEY UTILITY BRIDGE PERMANENT REPAIR**  
**Key West, Florida**

Mr. Castro;

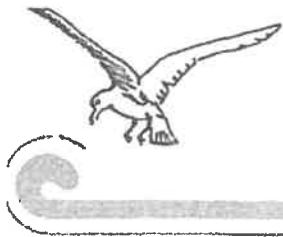
Ebsary Foundation Company is pleased to submit our **CONTRACT PROPOSAL** for the installation of the permanent force main utility supports and protective dolphins for the above referenced project. The proposed scope of work is based on the preliminary design drawings provided by High Spans Engineering, Inc. and the value engineering coordination between the City of Key West, Ebsary Foundation Company and High Spans Engineering, Inc. The final contract price for the proposed work is subject to final scope of work modification.

**1. BASE BID SCOPE OF WORK**

*Utility Shoring Construction*

- 1.1. All work shall be performed with onsite equipment and personnel. Additional Mobilization of barge, crane, boat and crew is not included in this scope of work.
- 1.2. ***Force Main Pipe Shoring***, as follows;
  - 1.2.1. Furnish and Install five (5) each permanent steel pipe foundations consisting of 14" x 3/8" wall steel pile, coated and sleeved in accordance with the specifications. And augercast piling through the center of each pipe. Grout and reinforcing in accordance with the project specifications.
  - 1.2.2. Furnish, Place and Finish the new 9'-8" x 12'-4" x 3' reinforced concrete pile cap with 18" concrete saddles and SS Saddle Straps.
  - 1.2.3. Removal of existing temporary shoring once new shoring cap has achieved minimum necessary strength.
  - 1.2.4. All materials and work in accordance with project specifications.
- 1.3. Three (3) ea. ***Protective Dolphin***, as follows
  - 1.3.1. Furnish and Install 1 ea. 14" x 0.5" wall steel pipe king pile for each dolphin. Three Total pipe pile. Pipe pile shall be coated and sleeved in accordance with the project

Incorporated 1930



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- specifications.
- 1.3.2. Furnish and Install 7 ea. 12" Timber pile cluster around the steel pipe king pile for each dolphin. Twenty-One Timber pile total. Piling to be #2 treated southern yellow pine in accordance with the project specifications.
- 1.3.3. Stainless Steel Cable wraps for each dolphin cluster in accordance with the project specifications.
- 1.3.4. Pile caps as required.

## 2. INCLUSIONS

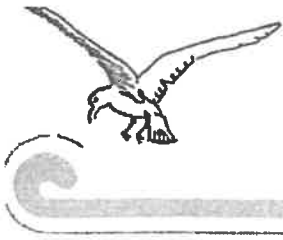
### *Items Provided By Ebsary*

- 2.1. Ebsary Foundation Co. ('Ebsary') agrees to furnish all labor, material, equipment and supervision to perform the scope of work outlined herein.
- 2.2. Barges, tugboats and marine based equipment
- 2.3. State and Local taxes related to Ebsary's work.
- 2.4. Required submittals for Ebsary's scope of work.
- 2.5. Florida Trench Safety Act and OSHA required fall protection.
- 2.6. Work Schedule Monday to Friday 7 am to 5 pm (Ebsary reserves the right to work Saturdays for make-up days)
- 2.7. Maintenance of Traffic as required.
- 2.8. Insurance as follows:
  - 2.8.1. Workman's Compensation and Employer's liability Insurance within the State of Florida's Limits.
  - 2.8.2. USL&H Coverage
  - 2.8.3. Comprehensive General Liability Insurance: \$2 million combined single limit.
  - 2.8.4. Auto Liability Insurance: \$1 million combined limit.

## 3. EXCLUSIONS & CLARIFICATIONS

### *Items Provided By Others*

- 3.1. Field Engineering; to include, geotechnical reports, soil borings, testing and inspection, pile logs, certifications, survey, as-built drawings, etc.
- 3.2. Design and Engineering. Additional field engineering and design modification may be required during construction
- 3.3. Protection of Existing Structures, vibration monitoring, settlement monitoring
- 3.4. Survey & As-Built Drawings
- 3.5. SSHO & QA/QC Manager
- 3.6. Standby or Delays due to anything outside of Ebsary's Scope of Work or reasonable control.
- 3.7. Sunday or Union Holiday Work
- 3.8. Inspection, Removal, Monitoring and Protection of Benthic Resources; specifically excluded is inspection, monitoring, reporting, removal, relocation or replacement of sea grasses,



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- mangrove or coral.
- 3.9. Location, protection, removal, or replacement of underground or overhead obstructions including utilities, underwater debris, navigation aids, etc., expect for what is specifically outlined in the scope of work.
- 3.10. Handling, relocation or installation of all utilities. Owner may be required to relocate any utilities that interfere with installation work.
- 3.11. Utility or Electrical Work, Waterline Flushing or Inspection
- 3.12. Divers and Underwater work
- 3.13. Maintenance, installation, removal, or temporary or permanent navigation lighting, MOT and/or signage in or around work area. Ebsary equipment will be lighted per USCG standards.
- 3.14. Bonds and Permits
- 3.15. Drilled or Grouted King Pile for the dolphin clusters.
- 3.16. Liquidated Damages.
- 3.17. Handling or removal of contaminants from site.
- 3.18. Pollution Liability Insurance, Professional Liability Insurance, Builders Risk Insurance, "All Risk" Coverage and Installation Floater.
- 3.19. Landscaping, Sod and plants.
- 3.20. Turbidity Control, Testing or Reports
- 3.21. Dedicated Endangered Species Monitor
- 3.22. Dedicated mobilization of equipment and personnel to jobsite. Work is to be performed with onsite barge and crane. Work must start immediately to utilize on site crew. Ebsary shall be responsible for delivery and haul away of all project specific materials and installation equipment.
- 3.23. All additional items not specifically outlined in the outlined scope of work, inclusions and exclusions.

#### 4. CONTRACT CONDITIONS

- 4.1. This proposal is based on unrestricted access to the job site with adequate space for all equipment in order to perform the above scope of work in a continuous uninterrupted manner.
- 4.2. Authorization to proceed with all work must proceed NLT than January 2<sup>nd</sup>, 2019.
- 4.3. Owner to allow Ebsary to restrict bridge traffic to one lane when required.
- 4.4. Owner shall be responsible for handling and management of all utilities.
- 4.5. Owner and Engineer shall allow for reasonable variations to the support structure design and installation as a result of constructability or material supply difficulties
- 4.6. Ebsary requires access for waterside staging and landside access to for selective deliveries.
- 4.7. Monthly payments are to be made as the work progresses and within 15 days of the installation month. Final payment is due within 15 days after completion of our work.
- 4.8. This quotation is based on **current labor and material costs** and is subject to availability of crew and equipment. It must be accepted in writing within **Thirty (30) days** of proposal date, after which time, we reserve the right to modify or withdraw it



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- 4.9. All unforeseen and additional work (items not specified on this proposal) will be paid in addition to the quoted proposal price and will be paid on a mutually agreed upon lump sum or time and material basis.
- 4.10. Payments not received within the terms described above will accrue interest at 1.5% per month.
- 4.11. Ebsary Foundation Company reserves the right to:
  - 4.11.1. Review the construction schedule and contract upon award.
  - 4.11.2. Defer or cancel any quotes or accepted orders in the event that Ebsary becomes delayed or prevented from performing due to shortages or allocations of materials. In the event of a delay or cancellation resulting from shortages or allocations of materials, Ebsary shall not be liable for any damages incurred as a result of any such delay or cancellation.
  - 4.11.3. Cease and desist all work and demobilize off site, at the cost of the owner/general contractor if progress payments are not received within 30 days of the invoice.

### 5. **BASE BID QUOTE**

*Ebsary's Price to Perform the Work:*

EMERGENCY WORK BID BASE PRICING					
Item	Description	Est	Unit	Unit Price	Total
10	Permanent Bridge Repairs	1	LS	\$ 315,000.00	\$ 315,000.00
20	Protective Dolphin	3	EA	\$ 44,500.00	\$ 133,500.00
TOTAL:					\$ 448,500.00

ADDITIONAL ITEMS					
Item	Description	Est	Unit	Unit Price	Total
100	Performance & Payment Bond			1.5 %	
110	Standby / Delay			\$ 1,500.00 / HR	
120	Unplanned Mobilization			\$ 25,000 / LS	

We appreciate the opportunity to quote this project. If you should have any questions, please contact the undersigned at your convenience.

Very Truly Yours,  
**EBSARY FOUNDATION COMPANY**

Matthew J. Shiring, P.E.  
Vice President