

City of Sturgis

1040 Harley-Davidson Way

Sturgis, SD 57785



2017

**BALLPARK ROAD/SHERMAN STREET  
ASPHALT SURFACE TREATMENT  
(Chip & Seal)**



Prepared By:  
City of Sturgis  
Public Works Dept.

**CITY OF STURGIS**  
**Ballpark Road/Sherman Street**  
**Asphalt Surface Treatment (Chip & Seal)**

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**NOTICE TO BIDDERS**

**BALLPARK ROAD/SHERMAN STREET  
ASPHALT SURFACE TREATMENT (Chip & Seal)**

The City of Sturgis will be accepting sealed bids for **Ballpark Road/Sherman Street Asphalt Surface Treatment** (Chip & Seal) until **1:00PM, Thursday May 4, 2017** at which time they will be publicly opened and read. Bids shall be delivered to Sturgis City Finance Office, 1040 Harley-Davidson Way, Suite 103, Sturgis, SD 57785.

Specifications and proposal forms may be inspected and procured at the Sturgis City Finance Office, 1040 Harley-Davidson Way, Suite 103, Sturgis, SD 57785 or online at [www.sturgis-sd.gov](http://www.sturgis-sd.gov) . Bidders shall check for Addendums on the website.

Each Bid must contain a certified check, Cashier's check or Draft, for five percent (5%) of the amount of the bid; such check to be certified or issued by either a State or National Bank and made payable to the City of Sturgis or in lieu of there of a Bid Bond for Ten Percent (10%) of the amount of this bid, such bond to be issued by a surety authorized to do business in the State of South Dakota and payable to the City of Sturgis as a guarantee that such bidder will enter into a contract with the City of Sturgis, its City Council thereof in accordance with terms of such letting and bid in the case such bidder is awarded the contract. The certified check or other guarantee, or bid bond of the successful bidder will be returned to him forthwith upon the execution of the contract and surety provided for.

At the time the successful bidder enters into a contract for the construction of public improvement or the furnishing of any material or labor thereof, the Contractor will be required, before commencing such work, to furnish surety in the amount not less than the contract price, for the faithful performance of such contract, with additional obligation. That such performance of such contractor will promptly pay all persons supplying him with labor or material in the prosecution of the work provided for in such contract. The Contractor shall also provide proof of liability insurance and workman's compensation insurance, as per section 21 of the general conditions.

All bids must be signed and submitted in a sealed envelope and shall state on the left hand corner of the envelope "**2017 Ballpark Road/Sherman Street Asphalt Surface Treatment**". Any bids received after the deadline will not be accepted.

No bid may be withdrawn within a period of thirty (30) days after the date fixed for opening bids. The City of Sturgis reserves the right to accept or reject any or all bids, to waive any informality in the bid received and to accept the bid that is to the advantage of, and in the best interest of the City of Sturgis after all bids have been examined.



Fay Bueno, City Finance Officer

## INFORMATION FOR BIDDERS

BIDS will be received by the City of Sturgis (herein called the "OWNER"), at the **Sturgis City Finance Office** until **1:00PM on Thursday, May 4, 2017**, at which time the will be publicly opened and read aloud.

Each BID must be submitted in a sealed envelope, addressed to the **Sturgis City Finance Office, 1040 Harley-Davidson Way, Suite 103, Sturgis, SD 57785**. Each sealed envelope containing a BID must be plainly marked on the outside as BID for "**Ballpark Road/Sherman Street Asphalt Surface Treatment (Chip & Seal)**" and the envelope should bear on the outside the name of the BIDDER, his address, his license number if applicable and the name of the project for which the BID is being submitted. If forwarded by mail, the sealed envelope containing the BID must be enclosed in another envelope addressed to **Sturgis City Finance Office, 1040 Harley-Davidson Way, Suite 103, Sturgis, SD 57785**.

All BIDS must be made on the required BID form. All blank spaces for BID prices must be filled in, in ink or typewritten, and the BID form must be fully completed and executed when submitted. One Original BID is required.

The Owner may waive any informalities or minor defects or reject any and all BIDS. Any BID may be withdrawn prior to the above scheduled time for the opening of BIDS or authorized postponement thereof. Any BID received after the time and date specified will not be considered. No BIDDER may withdraw a BID within 60 Days after the actual date of the opening thereof. Should there be reasons why the contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the OWNER and the BIDDER.

BIDDERS must satisfy themselves of the accuracy of the estimated quantities in the BID schedule by examination of the site and a review of the drawings and specifications including any ADDENDA. After BIDS have been submitted, the BIDDER will not assert that there was a misunderstanding concerning quantities of WORK or of the nature of the WORK to be done.

The OWNER will provide to BIDDERS prior to BIDDING, all information that is pertinent to, and delineates and describes, the land owned and the rights-of-way acquired or to be acquired.

The CONTRACT DOCUMENTS contain the provisions required for the construction if the PROJECT. Information obtained from an officer, agent, or employee of the OWNER or any other person will not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any condition of the CONTRACT.

Each BID must be accompanied by a certified check, Cashier's check or Draft, for Five percent (5%) of the amount of the bid; such check to be certified or issued by either a State or National Bank and made payable to the City of Sturgis or in lieu of there of a Bid Bond for Ten Percent (10%) of the amount of this bid, such bond to be issued by a surety authorized to do business in the State of South Dakota and payable to the City of Sturgis as a guarantee that such bidder will enter into a contract with the City of Sturgis, its City Council thereof in accordance with terms of such letting and bid in the case such bidder is awarded the contract. The certified check or other guarantee, or bid bond of the successful bidder will be returned to him forthwith upon the execution of the contract and surety provided for.

A performance BOND and a payment BOND, each in the amount of One Hundred (100%) percent of the CONTRACT PRICE, with a corporate surety approved by the OWNER, will be required for the faithful performance of the contract.

Attorneys-in-fact who sign BID BONDS and PAYMENT BONDS or performance BONDS must file with each BOND a certified and effective dated copy of their power of attorney.

The party to whom the contract is awarded will be required to execute the Agreement and obtain the performance BOND and payment BOND within fifteen (15) calendar days from the date when the NOTICE OF AWARD is delivered to the BIDDER. The NOTICE OF AWARD will be accompanied by the necessary Agreement and BOND forms. In case of failure of the BIDDER to execute the Agreement, the OWNER may at his option consider the BIDDER in default, in which case the BID BOND accompanying the proposal will become the property of the OWNER.

The OWNER within thirty (30) days of receipt of acceptable payment BOND and performance BOND, and Agreement signed by the party to whom the Agreement was awarded will sign the Agreement and return to such party an executed duplicate of the Agreement. Should the OWNER not execute the Agreement within such period, the BIDDER may by WRITTEN NOTICE withdraw his signed Agreement. Such notice of withdrawal will be effective upon receipt of the notice by the OWNER.

The NOTICE TO PROCEED will be issued within thirty (30) days of the execution of the Agreement by the OWNER. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period, the time may be extended by mutual agreement between the OWNER and CONTRACTOR. If the NOTICE TO PROCEED has not been issued within the thirty (30) day period or within the period mutually agreed upon, the CONTRACTOR may terminate the Agreement without further liability on the part of either party.

The OWNER may make such investigations as he deems necessary to determine the ability of the BIDDER to perform the WORK, and the BIDDER will furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any BID if the evidence submitted by, or investigation of, such BIDDER fails to satisfy the OWNER that such BIDDER is properly qualified to carry out the obligations of the AGREEMENT and to complete the WORK contemplated therein.

A conditional or qualified BID will not be accepted. Award will be made to the lowest RESPONSIBLE BIDDER. All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over the construction of the PROJECT will apply to the contract throughout. Each BIDDER is responsible for inspecting the site and for reading and being thoroughly familiar with the CONTRACT DOCUMENTS. The Failure or omission of any BIDDER to do any of the foregoing will in no way relieve any BIDDER from any obligation in respect to his BID.

Any questions or clarifications regarding requirements of the BID shall be made in writing to the **Public Works Director for the City of Sturgis at 1057 Dudley Street, Sturgis, SD 57785 (605) 347-3916**, prior to the time and date set for the BID Opening. If deemed necessary the Public Works Director will issue an ADDENDUM for the PROJECT to clarify requirements to all Bidders.

**BID**

Proposal of \_\_\_\_\_ (hereinafter called "BIDDER"), organized and existing under the laws of the State of \_\_\_\_\_, doing business as \* \_\_\_\_\_, to the City of Sturgis (hereinafter called "OWNER").

In compliance with your Advertisement for Bids, BIDDER hereby proposes to perform all work for the construction of the **"Ballpark Road/Sherman Street 2017 Asphalt Surface Treatment"** (Chip & Seal) in strict accordance with the CONTRACT DOCUMENTS, within the time set forth therein, and at the prices stated below.

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

BIDDER hereby agrees to commence WORK under this contract on or before a date to be specified in the NOTICE TO PROCEED and to fully complete the PROJECT by October 1, 2017 in accordance with SDDOT Pavement Preservation policies and procedures. BIDDER further agrees to pay liquidated damages to the sum of \$500.00 for each consecutive calendar day thereafter.

\* Insert "a Corporation", "a Partnership", or "an Individual", as applicable.

BIDDER acknowledges receipt of the following addendums:

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BIDDER agrees to perform all of the work described in the SPECIFICATIONS for the following unit prices or lump sums:

BID SCHEDULE- Ballpark Road/Sherman Street Asphalt Surface Treatment (chip & seal) - City of Sturgis 2017

NOTE: Bids shall include all applicable taxes and fees.

**City of Sturgis Ballpark Road/Sherman Street Asphalt Surface Treatment (Chip & Seal)**

BID ITEM NUMBER	DESCRIPTION	QUANTITY	UNIT	AMOUNT	EXTENDED PRICE
1	Mobilization	Lump Sum	LS	\$	\$
2	CRS-2P Asphalt for Surface Treatment	71.5 T (Est.)	Ton	\$	\$
3	Type 2A Cover Aggregate	612 T (Est.)	Ton	\$	\$
4	Fog Seal, Css-1h or SS-1h	25.2 T (Est.)	Ton	\$	\$
5	Traffic Control/Flagging	Lump Sum	LS	\$	\$
6	Traffic Marking	Lump Sum	LS	\$	\$
<b>Total Cost</b>					<b>\$</b>

**BID TOTAL \$** \_\_\_\_\_

The Project shall be awarded to the lowest responsible bidder of the Total Bid Price. The City of Sturgis reserves the right to accept or reject any or all bids. The City of Sturgis also reserves the right to delete Bid Items and/or decrease Bid Item quantities to stay within project budget. City Reserves the right to add or reduce quantities based on bid price to fit total project budget.

Respectfully submitted by: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

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

\_\_\_\_\_  
License Number (if applicable)

\_\_\_\_\_  
Date

\_\_\_\_\_  
ATTEST

**NOTICE OF AWARD**

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

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

PROJECT Description: **Ballpark Road/Sherman Street 2017 Asphalt Surface Treatment (Chip & Seal)**

The **OWNER** has considered the BID submitted by you for the above described **WORK** in response to its Advertisement for bids dated \_\_\_\_\_ day of \_\_\_\_\_, 2017, and Information for Bidders.

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

\$ \_\_\_\_\_ (as per the attached unit prices)

You are required by the Information for Bidders to execute the Agreement and furnish the required **Contractors Performance Bond, Payment Bond and Certificates of Insurance** within fifteen (15) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said **BONDS** within fifteen (15) days from the date of this Notice of Award, said **OWNER** will be entitled to consider all your rights arising out of the **OWNERS** acceptance of your **BID** as abandoned and as a forfeiture of your **BID BOND**. The **OWNER** will be entitled to such other rights as may be granted by law.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017

On behalf of the City of Sturgis: \_\_\_\_\_

City Manager- Daniel Ainslie

**ACCEPTANCE OF NOTICE**

Receipt of the above **NOTICE OF AWARD** is hereby acknowledged by the contractor:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017

Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

## AGREEMENT

**THIS AGREEMENT**, made this \_\_\_\_ day of \_\_\_\_\_, 2017 by and between the **CITY OF STURGIS**, hereinafter called the “**OWNER**” and \_\_\_\_\_ doing business as a \* \_\_\_\_\_, hereinafter called “**CONTRACTOR**”.

*\* Insert “a Corporation”, “a Partnership”, or “an Individual”, as applicable.*

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

1. The **CONTRACTOR** will commence and complete the construction of:

**Ballpark Road/Sherman Street 2017 Asphalt Surface Treatment (Chip & Seal)**

The **CONTRACTOR** will furnish all of the materials, supplies, tools, equipment, labor and other services necessary for the construction and completion of the **PROJECT** described herein.

2. The **CONTRACTOR** hereby agrees to complete all **WORK** with a 100% completion no later than October 1, 2017. **CONTRACTOR** further agrees to pay liquidated damages in the sum of \$500.00 for each consecutive calendar day thereafter.
3. The **CONTRACTOR** agrees to perform all of the **WORK** described in the **CONTRACT DOCUMENTS** and comply with the terms therein for the sum of \$ \_\_\_\_\_ using the Unit Price as shown in the **BID SCHEDULE**.
4. The term “**CONTRACT DOCUMENTS**” means and includes the following:
  - A. Advertisement for Bids
  - B. Information for Bidders
  - C. BID
  - D. Notice of Award
  - E. Agreement
  - F. Notice to Proceed
  - G. General Conditions
  - H. Special Conditions
  - I. Specifications, Maintenance of Traffic, Details Layouts and Standard Plates

5. The **OWNER** will review payment to the **CONTRACTOR** at the first Council Meeting each Month. The **CONTRACTOR** will complete a pay estimate and submit no later than the last Monday of each month to sign and submit to the **OWNER**.
6. This Agreement will be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns. **IN WITNESS WHEREOF**, the parties hereto have executed, or caused to be executed by their duly authorized officials, four copies of this Agreement will be deemed an original on the date first above written.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017

On behalf of the City of Sturgis: \_\_\_\_\_

City Manager- Daniel Ainslie

(SEAL)

ATTEST \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**ACCEPTANCE OF AGREEMENT**

Contractor \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

(SEAL)

ATTEST \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**NOTICE TO PROCEED**

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

PROJECT Description: **Ballpark Road/Sherman Street 2017 Asphalt Surface Treatment (Chip & Seal)**

You are hereby notified to commence **WORK** in accordance with the Agreement  
dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017, on or soon after the date of \_\_\_\_\_, 2017.

The date of completion of all **WORK** is **October 1, 2017**.  
**City of Sturgis**

\_\_\_\_\_  
City Manager- Daniel Ainslie

**ACCEPTANCE OF NOTICE**

Receipt of the above **NOTICE TO PROCEED** is hereby acknowledged by the contractor:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017

Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

## GENERAL CONDITIONS

1. Definitions
2. Additional Instructions and Detail Drawings
3. Schedules, Reports and Records
4. Drawings and Specifications
5. Shop Drawings
6. Materials, Services and Facilities
7. Inspection and Testing
8. Substitutions
9. Patents
10. Surveys, Permits, Regulations
11. Protection of Work, Property, Persons
12. Supervision by Contractor
13. Changes in the Work
14. Changes in Contract Price
15. Time for Completion and Liquidated Damages
16. Correction of Work

### 1. DEFINITIONS

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

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

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

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

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

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

1.7 CONTRACT DOCUMENTS - The contract, including Advertisement for Bids, Information for Bidders, BID, Bid Bond, Agreement, Payment Bond, Performance Bond, NOTICE OF AWARD, NOTICE TO PROCEED, CHANGE ORDER, DRAWINGS, SPECIFICATIONS, and ADDENDA.

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

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

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

1.11 DRAWINGS - The part of the CONTRACT DOCUMENTS which show the characteristics and scope of the WORK to be performed and which have been prepared or approved by the ENGINEER.

1.12 ENGINEER - The person, firm or corporation named as such in the CONTRACT DOCUMENTS.

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

17. Subsurface Conditions
18. Suspension of Work, Termination and Delay
19. Payments to Contractor
20. Acceptance of Final Payment as Release
21. Insurance
22. Contract Security
23. Assignments
24. Indemnification
25. Separate Contracts
26. Subcontracting
27. Engineer's Authority
28. Land and Rights-of-Way
29. Guaranty
30. Arbitration
31. Taxes

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

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

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

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

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

1.19 SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the CONTRACTOR, a SUBCONTRACTOR, manufacturer, SUPPLIER or distributor, which illustrate how specific portions of the WORK will be fabricated or installed.

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

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

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

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

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

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

1.26 WRITTEN NOTICE - Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address, or delivered in person to said party or his authorized representative on the WORK.

## 2. *ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS*

2.1 The CONTRACTOR may be furnished additional instructions and detail drawings by the ENGINEER, as necessary to carry out the WORK required by the CONTRACT DOCUMENTS.

2.2 The additional drawings and instruction thus supplied will become a part of the CONTRACT DOCUMENTS. The CONTRACTOR will carry out the WORK in accordance with the additional detail drawings and instructions.

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

3.1 The CONTRACTOR will submit to the OWNER such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data where applicable as are required by the CONTRACT DOCUMENTS for the WORK to be performed.

3.2 Prior to the first partial payment estimate the CONTRACTOR will submit construction progress schedules showing the order in which he proposes to carry on the WORK, including dates at which he will start the various parts of the WORK, estimated date of completion of each part and, as applicable:

3.2.1 The dates at which special detail drawings will be required;  
and

3.2.2 Respective dates for submission of SHOP DRAWINGS, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.

3.3 The CONTRACTOR will also submit a schedule of payments that he anticipates he will earn during the course of the WORK.

### 4. *DRAWINGS AND SPECIFICATIONS*

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

4.2 In case of conflict between the DRAWINGS and SPECIFICATIONS, the SPECIFICATIONS will govern. Figure dimension on DRAWINGS will govern over scale dimensions and detailed DRAWINGS will govern over general DRAWINGS.

4.3 Any discrepancies found between the DRAWINGS and SPECIFICATIONS and site conditions or any inconsistencies or ambiguities in the DRAWINGS or SPECIFICATIONS will be immediately reported to the ENGINEER, in writing, who will promptly correct such inconsistencies or ambiguities in writing WORK done by the CONTRACTOR after his discovery of such

discrepancies, inconsistencies or ambiguities will be done at the CONTRACTORS risk.

## 5 SHOP DRAWINGS

5.1 The CONTRACTOR will provide SHOP DRAWINGS as may be necessary for the prosecution of the WORK as required by the CONTRACT DOCUMENTS. The ENGINEER will promptly review all SHOP DRAWING. The ENGINEER'S approval of any SHOP DRAWING will not release the CONTRACTOR from responsibility for deviations from the CONTRACT DOCUMENTS. The approval of any SHOP DRAWING which substantially deviates from the requirement of the CONTRACT DOCUMENTS will be evidenced by a CHANGE ORDER.

5.2 When submitted for the ENGINEER'S review, SHOP DRAWINGS will bear the CONTRACTOR'S certification that he has reviewed, checked and approved the SHOP DRAWINGS and that they are in conformance with the requirements of the CONTRACT DOCUMENTS.

5.3 Portions of the WORK requiring a SHOP DRAWING or sample submission will not begin until the SHOP DRAWING or submission has been approved by the ENGINEER. A copy of each approved SHOP DRAWING and each approved sample will be kept in good order by the CONTRACTOR at the site and will be available to the ENGINEER.

## 6. MATERIALS, SERVICES AND FACILITIES

6.1 It is understood that, except as otherwise specifically stated in the CONTRACT DOCUMENTS, the CONTRACTOR will provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the WORK within the specified time.

6.2 Materials and equipment will be so stored as to insure the preservation of their quality and fitness for the WORK. Stored materials and equipment to be incorporated in the WORK will be located so as to facilitate prompt inspection.

6.3 Manufactured articles, materials and equipment will be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

6.4 Materials, supplies and equipment will be in accordance with samples submitted by the CONTRACTOR and approved by the ENGINEER.

6.5 Materials, supplies or equipment to be incorporated into the WORK will not be purchased by the CONTRACTOR or the SUBCONTRACTOR subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

## 7 INSPECTION AND TESTING

7.1 All materials and equipment used in the construction of the PROJECT will be subject to adequate inspection and testing in accordance with generally accepted standards as required and defined in the CONTRACT DOCUMENTS.

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

7.3 The CONTRACTOR will provide at his expense the testing and inspection services required by the CONTRACT DOCUMENTS.

7.4 If the CONTRACT DOCUMENTS, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any WORK to specifically be inspected, tested, or approved by someone other than the CONTRACTOR, the CONTRACTOR will give the ENGINEER timely notice of readiness. The CONTRACTOR will then furnish the ENGINEER the required certificates of inspection, testing or approval.

7.5 Inspections, tests or approvals by the engineer or others will not relieve the CONTRACTOR from his obligations to perform the WORK in accordance with the requirements of the CONTRACT DOCUMENTS.

7.6 The ENGINEER and his representatives will at all times have access to the WORK. In addition, authorized representatives and agents of any participating Federal or state agency will be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The CONTRACTOR will provide proper facilities for such access and observation of the WORK and also for any inspection, or testing thereof.

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

7.8 If the ENGINEER considers it necessary or advisable that covered WORK be inspected or tested by others, the CONTRACTOR, at the ENGINEER'S request, will uncover, expose or otherwise make available for observation, inspection or testing as the ENGINEER may require, that portion of the WORK in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such WORK is defective, the CONTRACTOR will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If, however, such WORK is not found to be defective, the CONTRACTOR will be allowed an increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate CHANGE ORDER will be issued.

## 8. SUBSTITUTIONS

8.1 Whenever a material, article or piece of equipment is identified on the DRAWINGS or SPECIFICATIONS by reference to brand name or catalogue number, it will be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equipment capacities, quality and function will be considered. The CONTRACTOR may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the CONTRACT DOCUMENTS by reference to brand name or catalogue number, and if, in the opinion of the ENGINEER, such material, article, or piece of equipment is of equal substance and function to that specified, the ENGINEER may approve its substitution and use by the CONTRACTOR. Any cost differential will be deductible from the CONTRACT PRICE, and the CONTRACT DOCUMENTS will be appropriately modified by CHANGE ORDER. The CONTRACTOR warrants that if substitutes are approved, no major changes in the function or general design of the PROJECT will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the CONTRACTOR without a change in the CONTRACT PRICE or CONTRACT TIME.

## 9. PATENTS

9.1 The CONTRACTOR will pay all applicable royalties and license fees. He will defend all suites or claims for infringement of any patent rights and save the OWNER harmless from loss on account thereof, except that the OWNER will be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufactures is specified, however if the CONTRACTOR has reason to believe that the design, process or product specified is an infringement of a patent, he will be responsible for such loss unless he promptly gives such information to the ENGINEER.

## 10.. SURVEYS, PERMITS, REGULATIONS

10.1 The OWNER will furnish all boundary surveys and establish all base lines for locating the principal component parts of the WORK together with a suitable number of bench marks adjacent to the WORK as shown in the CONTRACT DOCUMENTS. From the information provided by the OWNER, unless otherwise specified in the CONTRACT DOCUMENTS, the CONTRACTOR will develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pile locations and other working points, lines, elevations and cut sheets.

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

10.3 Permits and Licenses of a temporary nature necessary for the prosecution of the WORK will be secured and paid for by the CONTRACTOR unless otherwise stated in the SUPPLEMENTAL GENERAL CONDITIONS. Permits,

licenses and easements for permanent structures or permanent changes in existing facilities will be secured and paid for by the OWNER, unless otherwise specified. The CONTRACTOR will give all notices and comply with all laws, ordinance, rules and regulations bearing on the conduct of the WORK as drawn and specified. If the CONTRACTOR observes that the CONTRACT DOCUMENTS are at variance therewith, he will promptly notify the ENGINEER in writing, and any necessary changes will be adjusted as provided in Section 13. CHANGES IN THE WORK.

## 11. PROTECTION OF WORK, PROPERTY AND PERSONS

11.1 The CONTRACTOR will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the WORK. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the WORK and other persons who may be affected thereby, all the WORK and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

11.2 The CONTRACTOR will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. He will erect and maintain, as required by the conditions and progress of the WORK, all necessary safeguards for safety and protection. He will notify owners of adjacent utilities when prosecution of the WORK may affect them. The CONTRACTOR will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any SUBCONTRACTOR or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable, except damage or loss attributable in the fault of the CONTRACT DOCUMENTS or to the acts or omissions of the OWNER or the ENGINEER or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the CONTRACTOR.

11.3 In emergencies affecting the safety of persons or the WORK or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the ENGINEER or OWNER, will act to prevent threatened damage, injury or loss. He will give the ENGINEER prompt WRITTEN NOTICE of any significant changes in the WORK or deviations from the CONTRACT DOCUMENTS caused thereby, and a CHANGE ORDER will thereupon be issued covering the changes and deviations involved.

## 12. SUPERVISION BY CONTRACTOR

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

### 13. *CHANGES IN THE WORK*

13.1 The OWNER may at any time, as the need arises, order changes within the scope of the WORK without invalidating the Agreement. If such changes increase or decrease the amount due under the CONTRACT DOCUMENTS, or in the time required for performance of the WORK, an equitable adjustment will be authorized by CHANGE ORDER.

13.2 The ENGINEER also, may at any time, by issuing a FIELD ORDER, make changes in the details of the WORK. The CONTRACTOR will proceed with the performance of any changes in the WORK so ordered by the ENGINEER unless the CONTRACTOR believes that such FIELD ORDER entitles him to a change in CONTRACT PRICE or TIME, or both, in which event he will give the ENGINEER WRITTEN NOTICE thereof within seven (7) days after the receipt of the ordered change. Thereafter the CONTRACTOR will document the basis for the change in CONTRACT PRICE or TIME within thirty (30) days. The CONTRACTOR will not execute such changes pending the receipt of an executed CHANGE ORDER or further instruction from the OWNER.

### 14. *CHANGES IN CONTRACT PRICE*

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

- (a) Unit prices previously approved.
- (b) An agreed lump sum
- © The actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work. In addition there will be added an amount to be agreed upon but not to exceed fifteen (15) percent of the actual cost of the WORK to cover the cost of general overhead and profit.

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

15.1 The date of beginning and the time for completion of the WORK are essential conditions of the CONTRACT

DOCUMENTS and the WORK embraced will be commenced on a date specified in the NOTICE TO PROCEED.

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

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

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

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

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

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

### 16. *CORRECTION OF WORK*

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

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

## 17. *SUBSURFACE CONDITIONS*

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

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

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

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

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

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

18.2 If the CONTRACTOR is adjudged a bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the CONTRACTOR or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to SUBCONTRACTORS or for labor, materials or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the WORK or if he disregards the authority of the ENGINEER, or if he otherwise violates any provision of the CONTRACT DOCUMENTS, then the OWNER may, without prejudice to any other right or remedy and after giving the CONTRACTOR and his surety a minimum of ten (10) days from delivery of a WRITTEN NOTICE terminate the services of the CONTRACTOR and take possession of the

PROJECT and of all materials, equipment, tools, construction equipment and machinery thereon owned by the CONTRACTOR, and finish the WORK by whatever method he may deem expedient. In such case the CONTRACTOR will not be entitled to receive any further payment until the WORK is finished. If the unpaid balance of the CONTRACT PRICE exceeds the direct and indirect costs of completing the PROJECT, including compensation for additional professional services, such excess WILL BE PAID TO THE CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR will pay the difference to the OWNER. Such costs incurred by the OWNER will be determined by the ENGINEER and incorporated in a CHANGE ORDER.

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

18.4 After ten (10) days from delivery of a WRITTEN NOTICE to the CONTRACTOR and the ENGINEER, the OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the PROJECT and terminate the Contract. In such case, the CONTRACTOR will be paid for all WORK executed and any expense sustained plus reasonable profit.

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

18.6 If the performance of all or any portion of the WORK is suspended, delayed, or interrupted as a result of a failure of the OWNER or ENGINEER to act within the time specified in the CONTRACT DOCUMENTS, or if no time is specified, within a reasonable time, an adjustment in the CONTRACT PRICE, or an extension of the CONTRACT

TIME, or both, will be made by CHANGE ORDER to compensate the CONTRACTOR for the costs and delays necessarily caused by the failure of the OWNER or ENGINEER.

#### 19. PAYMENTS TO CONTRACTOR

19.1 At least ten (10) days before each progress payment falls due (but not more than once a month), the CONTRACTOR will submit to the ENGINEER a partial payment estimate filled out and signed by the CONTRACTOR covering the WORK performed during the period covered by the partial payment estimate and supported by such data as the ENGINEER may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the WORK but delivered and suitably stored at or near the site, the partial payment estimate will also be accompanied by such supporting data, satisfactory to the OWNER, as will establish the OWNER's title to the material and equipment and protect his interest therein, including applicable insurance. The ENGINEER will, within ten (10) days after receipt of each partial payment estimate, either indicate in writing his approval of payment and present the partial payment estimate to the OWNER, or return the partial payment estimate to the CONTRACTOR indicating in writing his reasons for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The OWNER will, within ten (10) days of presentation to him of an approved partial payment estimate, pay the CONTRACTOR a progress payment on the basis of the approved partial payment estimate. The OWNER will retain ten (10) percent of the amount of each payment until final completion and acceptance of all work covered by the CONTRACT DOCUMENTS. The OWNER at any time, however, after fifty (50) percent of the WORK has been completed, if he finds that satisfactory progress is being made, will reduce retainage to five (5%) on the current and remaining estimates. When the WORK is substantially complete (operational or beneficial occupancy), the retained amount may be further reduced below five (5) percent to only that amount necessary to assure completion. On completion and acceptance of a part of the WORK on which the price is stated separately in the CONTRACT DOCUMENTS, payment may be made in full, including retained percentages, less authorized deductions.

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

19.3 Prior to SUBSTANTIAL COMPLETION, the OWNER, with the approval of the ENGINEER and with the concurrence of the CONTRACTOR, may use any completed or substantially completed portions of the WORK. Such use will not constitute an acceptance of such portions of the WORK.

19.4 The OWNER will have the right to enter the premises for the purpose of doing work not covered by the

CONTRACT DOCUMENTS. This provision will not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the WORK, or the restoration of any damaged WORK except such as may be caused by agents or employees of the OWNER.

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

19.6 The CONTRACTOR will indemnify and save the OWNER or the OWNER's agents harmless from all claims growing out of the lawful demands of SUBCONTRACTORS, laborers, workmen, mechanics, material, and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the WORK. The CONTRACTOR will, at the OWNER'S request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the CONTRACTOR fails to do so the OWNER may, after having notified the CONTRACTOR, either pay unpaid bills or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the CONTRACTOR will be resumed, in accordance with the terms of the CONTRACT DOCUMENTS, but in no event will the provisions of this sentence be construed to impose any obligations upon the OWNER to either the CONTRACTOR, his Surety, or any third party. In paying any unpaid bills of the CONTRACTOR, any payment so made by the OWNER will be considered as a payment made under the CONTRACT DOCUMENTS by the OWNER to the CONTRACTOR and the OWNER will not be liable to the CONTRACTOR for any such payments made in good faith.

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

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

20.1 The acceptance by the CONTRACTOR of final payment will be and will operate as a release to the OWNER of all claims and all liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR or all things done or furnished in connection with this WORK and for every act and neglect of the OWNER and others relating to or arising out of this WORK. Any payment, however,

final or otherwise, will not release the CONTRACTOR or his sureties from any obligations under the CONTRACT DOCUMENTS or the Performance BOND and Payment BONDS.

## 21. *INSURANCE*

21.1 The CONTRACTOR will purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the CONTRACTOR'S execution of the WORK, whether such execution be by himself or by any SUBCONTRACTOR or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

21.1.1 Claims under workmen's compensation, disability benefit and other similar employee benefit acts;

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

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

21.1.4 Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the CONTRACTOR, or (2) by any other person; and

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

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

21.3 The CONTRACTOR will procure and maintain, at his own expense, during the CONTRACT TIME, liability insurance as hereinafter specified:

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

written with a limit of liability of not less than \$200,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$200,000 aggregate for any such damage sustained by two or more persons in any one accident.

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

21.4 The CONTRACTOR will procure and maintain, at his own expense, during the CONTRACT TIME, in accordance with the provisions of the laws of the state in which the work is performed. Workmen's Compensation Insurance, including occupational disease provisions, for all of his employees at the site of the PROJECT and in case any work is sublet, the CONTRACTOR will require such SUBCONTRACTOR similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. In case any class of employees engaged in hazardous work under this contract at the site of the PROJECT is not protected under Workmen's Compensation statute, the CONTRACTOR will provide, and will cause each SUBCONTRACTOR to provide, adequate and suitable insurance for the protection of his employees and otherwise protected.

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

## 22. *CONTRACT SECURITY*

22.1 The CONTRACTOR will within ten (10) days after the receipt of the NOTICE OF AWARD furnish the OWNER with a Performance Bond and a Payment Bond in penal sums equal to the amount of the CONTRACT PRICE, conditioned upon the performance by the CONTRACTOR of all undertakings, covenants, terms, conditions and agreements of the CONTRACT DOCUMENTS, and upon the prompt payment by the CONTRACTOR to all persons supplying labor and materials in the prosecution of the WORK provided by the CONTRACT DOCUMENTS. Such BONDS will be executed by the CONTRACTOR and a corporate bonding company licensed to transact such business in the state in

which the WORK is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these BONDS will be borne by the CONTRACTOR. If at any time a surety on any such BOND is declared a bankrupt or loses its right to do business in the state in which the WORK is to be performed or is removed from the list of Surety Companies accepted on Federal BONDS, CONTRACTOR will within ten (10) days after notice from the OWNER to do so, substitute an acceptable BOND (or BONDS) in such form and sum and signed by such other surety or sureties as may be satisfactory to the OWNER. The premiums on such BOND will be paid by the CONTRACTOR. No further payments will be deemed due nor will be made until the new surety or sureties will have furnished an acceptable BOND to the OWNER.

### 23. ASSIGNMENTS

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

### 24. INDEMNIFICATION

24.1 The CONTRACTOR will indemnify and hold harmless the OWNER and the ENGINEER and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the WORK, provided that any such claims, damage, loss or expense will be attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, and SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

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

24.3 The obligation of the CONTRACTOR under this paragraph will not extend to the liability of the ENGINEER, his agents or employees arising out of the preparation or approval of maps, DRAWINGS, opinions, reports, surveys, CHANGE ORDERS, designs or SPECIFICATIONS.

### 25. SEPARATE CONTRACTS

25.1 The OWNER reserves the right to let other contracts in connection with this PROJECT. The CONTRACTOR will afford other CONTRACTORS reasonable opportunity for the introduction and storage of their materials and the execution of their WORK, and will properly connect and coordinate his WORK with theirs. If the proper execution or results of any part of the CONTRACTOR'S WORK depends upon the WORK of any other CONTRACTOR, the CONTRACTOR will inspect and promptly report to the ENGINEER any defects in such WORK that render it unsuitable for such proper execution and results.

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

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

### 26. SUBCONTRACTING

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

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

26.3 The CONTRACTOR will be 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.

26.4 The CONTRACTOR will cause appropriate provisions to be inserted in all subcontracts relative to the WORK to bind SUBCONTRACTORS to the CONTRACTOR by the terms of the CONTRACT DOCUMENTS insofar as applicable to the WORK of

SUBCONTRACTORS and to give the CONTRACTOR the same power as regards terminating any subcontract that the OWNER may exercise over the CONTRACTOR under any provision of the CONTRACT DOCUMENTS.

26.5 Nothing contained in this CONTRACT will create any contractual relation between any SUBCONTRACTOR and the OWNER.

#### 27. ENGINEER'S AUTHORITY

27.1 The ENGINEER will act as the OWNER'S representative during the construction period. He will decide questions, which may arise as to quality and acceptability of materials furnished and WORK performed. He will interpret the intent of the CONTRACT DOCUMENTS in a fair and unbiased manner. The ENGINEER will make visits to the site and determine if the WORK is proceeding in accordance with the CONTRACT DOCUMENTS.

27.2 The CONTRACTOR will be held strictly to the intent of the CONTRACT DOCUMENTS in regard to the quality of materials, workmanship and execution of the WORK. Inspections may be made at the factory or fabrication plant of the source of material supply.

27.3 The ENGINEER will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.

27.4 The ENGINEER will promptly make decisions relative to interpretation of the CONTRACT DOCUMENTS.

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

28.1 Prior to issuance of NOTICE TO PROCEED, the OWNER will obtain all land and rights-of-way necessary for carrying out and for the completion of the WORK to be performed pursuant to the CONTRACT DOCUMENTS, unless otherwise mutually agreed.

28.2 The OWNER will provide to the CONTRACTOR information, which delineates and describes the lands owned and rights-of-way acquired.

28.3 The CONTRACTOR will provide at his own expense and without liability to the OWNER any additional land and access thereto that the CONTRACTOR may desire for temporary construction facilities or for storage of materials.

#### 29. GUARANTY

29.1 The CONTRACTOR will guarantee all materials and equipment furnished and WORK performed for a period of one (1) year from the date of SUBSTANTIAL COMPLETION. The CONTRACTOR warrants and guarantees for a period of one (1) year from the date of SUBSTANTIAL COMPLETION of the system that the completed system is free from all defects due to faulty materials or workmanship and the CONTRACTOR will

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

#### 30. ARBITRATION

30.1 All claims, disputes and other matters in question arising out of, or relating to, the CONTRACT DOCUMENTS or the breach thereof, except for claims which have been waived by the making and acceptance of final payment as provided by Section 20, will be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. This agreement to arbitrate will be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators will be final, and judgment may be entered upon it in any court having jurisdiction thereof.

30.2 Notice of the demand for arbitration will be filed in writing with the other party to the CONTRACT DOCUMENTS and with the American Arbitration Association, and a copy will be filed with the ENGINEER. Demand for arbitration will in no event be made on any claim, dispute or other matter in question, which would be barred by the applicable statute of limitations.

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

#### 31. TAXES

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



## **SPECIAL CONDITIONS**

**SC-1 EXAMINATION OF SITE:** Before bidding the work, each contractor will inform themselves fully as to all site conditions and local regulations.

**SC-2 WORK INCLUDED IN THE CONSTRUCTION CONTRACT:** The work to be included in this contract includes all labor and materials that are necessary for and reasonably incidental to the completion of all the new construction, as shown and specified in the plans and specifications. This includes restoration of all Traffic Paint Markings, such as lane markings, crosswalks and others present before the start of the project.

**SC-3 SAFETY EQUIPMENT:** Precautions will be exercised at all times for the protection of all persons and property. All Federal Safety Standards and County Regulations will be abided by and enforced by the National Health and Safety Act. All safety precautions will be exercised and carried out in such a manner so as to not make the Owner and Engineer negligent at all times.

**SC-4 SAMPLES REQUIRED:** Any and all samples will be furnished by the Contractor to the Engineer/Owner as requested.

**SPECIFICATIONS**

All work unless otherwise specified or agreed by both parties in writing, will follow the Standard Specifications for Roads and Bridges, 2004 Edition of South Dakota Department of Transportation and any supplemental specifications thereto adopted. The Specifications will be modified as follows:

**ASPHALT SURFACE TREATMENT**

Prior to any asphalt surface treatment the entire surface shall be broomed from the center to the shoulders.

Oil for asphalt surface treatment will be CRS-2P. Bill of Lading will be provided for each tanker load of oil for asphalt. The oil for asphalt surface treatment will be applied at the rates shown in Table I.

**8.06 tons** of oil for Asphalt surface treatment has been added to the estimate for **Owners discretion** and may or may not be used on the project.

Mineral aggregate for Asphalt Surface Treatment, meeting the requirements for Type 2A, will be furnished by the Contractor. Contractor's stockpile will be approved by the Owner prior to the placement of any chips. The Asphalt Surface Treatment, Type 2A will be applied at the rates shown in Table I.

**72 tons** of Type 2A mineral aggregate has been added to the estimate for Owner's discretion. **A minimum of 3 rubber tired, self-propelled rollers will be required for use.**

The Contractor will lightly broom the entire surface after waiting a minimum of 24 hours from placement of the aggregate. This will be considered incidental to the placement of the aggregate.

**FOG SEAL**

The Contractor shall apply SS-1h or CSS-1h to all areas that the asphalt surface treatment was applied at the rate of .05 gallons per square yard within 48 hours after the initial brooming. A water-to-emulsion rate of 1:1 should be used for the binder application.

**1.26 tons** of oil for Fog Seal has been added to the estimate for **Owner's discretion**.

**TABLE I  
ESTIMATE OF QUANTITIES & RATES OF MATERIALS**

Street Description	Length LF	Width LF	Area SY	CRS-2P Ton	Type 2A Chips Ton	Fog Seal Ton
<b>Sturgis Streets</b>						
Ballpark Road	6,900	45	34500	49.266	414	21.735
Sherman Street	2,100	45	10500	14.112	126	2.205
Owners Discretion	1200	45	6000	8.064	72	1.26
<b>Total Quantities</b>			<b>51000</b>	<b>71.442</b>	<b>612</b>	<b>25.2</b>
<b>Rates of Materials</b>				<b>0.34 gal/sy</b>	<b>24lbs/sy</b>	<b>0.15 gal/sy</b>

## **GENERAL MAINTENANCE OF TRAFFIC**

Storage of vehicles and equipment shall be outside the clear zone and as near as possible to the right-of-way line. Contractor's employees should mobilize at a location off the right-of-way and arrive at the work sites in a minimum number of vehicles necessary to perform the work. Indiscriminate driving and parking of vehicles within the right-of-way will not be permitted. Any damage to the vegetation, surfacing, embankment, delineators and existing signs resulting from such indiscriminate use shall be repaired and/or restored by the Contractor, at no expense to the County, and to the satisfaction of the Engineer.

Construction operations shall be coordinated to result in the least delay of traffic. If traffic is permitted, it shall be controlled by flaggers or pilot car, during application of the surface treatment on driving lanes. The traffic shall not exceed twenty (20) miles per hour for a period of four (4) hours after application. The minimum four (4) hour traffic control period may be reduced if ordered by the Owner.

The width, arrangement, and sequence of the parallel application strips shall be governed so as not to unduly inconvenience traffic.

## **MAINTENANCE AND REPAIR**

Areas of the surface treatment, which may peel or otherwise be unsatisfactory for any reason shall be repaired with additional asphalt, cover aggregate, and rolling. Additional compensation for repair due to causes not the fault of the Contractor will be paid at the contract unit price for asphalt surface treatment.

The finished surface of the surface treatment shall be smooth riding and of uniform color. Lack of uniformity such as transverse or horizontal ridges, raveled spots, wheel marks, depressions, abrupt color changes, and other inequalities shall be corrected by the Contractor, as ordered by the Owner. Payment will not be made for this correction work.

Special attention shall be given to the transverse and longitudinal joints during the process of the rolling work in order to insure a uniform appearance and smooth riding surface. The Contractor shall smooth and correct the appearance of these joints, as ordered by the Owner, without additional compensation.

Any splatter of asphalt on roadway appurtenances, shall be satisfactorily cleaned off by the Contractor.

The loose material left on the surface shall be lightly vacuumed off three (3) to five (5) days after sealing the road.

Vacuumed-off material shall be removed by the Contractor without additional compensation and hauled to a City designated site.

Care should be given to protect all water valves, manholes and other utility control devices located in the roadway.

All existing Traffic Paint markings shall be adequately documented so that they can be duplicated and restored by the contractor upon completion of the Asphalt Surface Treatment, this shall include but not limited to lane markings and crosswalks.

## **METHOD OF MEASUREMENT**

### **Asphalt for Surface Treatment:**

Asphalt for surface treatment will be measured to the nearest one-tenth (0.1) ton. Contractor shall provide Owner with valid weigh tickets for asphalt, furnished and installed.

### **Cover Aggregate:**

Cover aggregate will be measured to the nearest one-tenth (0.1) ton. Contractor shall provide Owner with valid weigh tickets for cover aggregate, furnished and installed.

## BASIS OF PAYMENT

### Asphalt for Surface Treatment:

The accepted quantities of asphalt for surface treatment will be paid for at the contract price per ton, complete, in place. Weigh tickets will not be considered valid if received more than forty-eight hours after placement.

### Cover Aggregate:

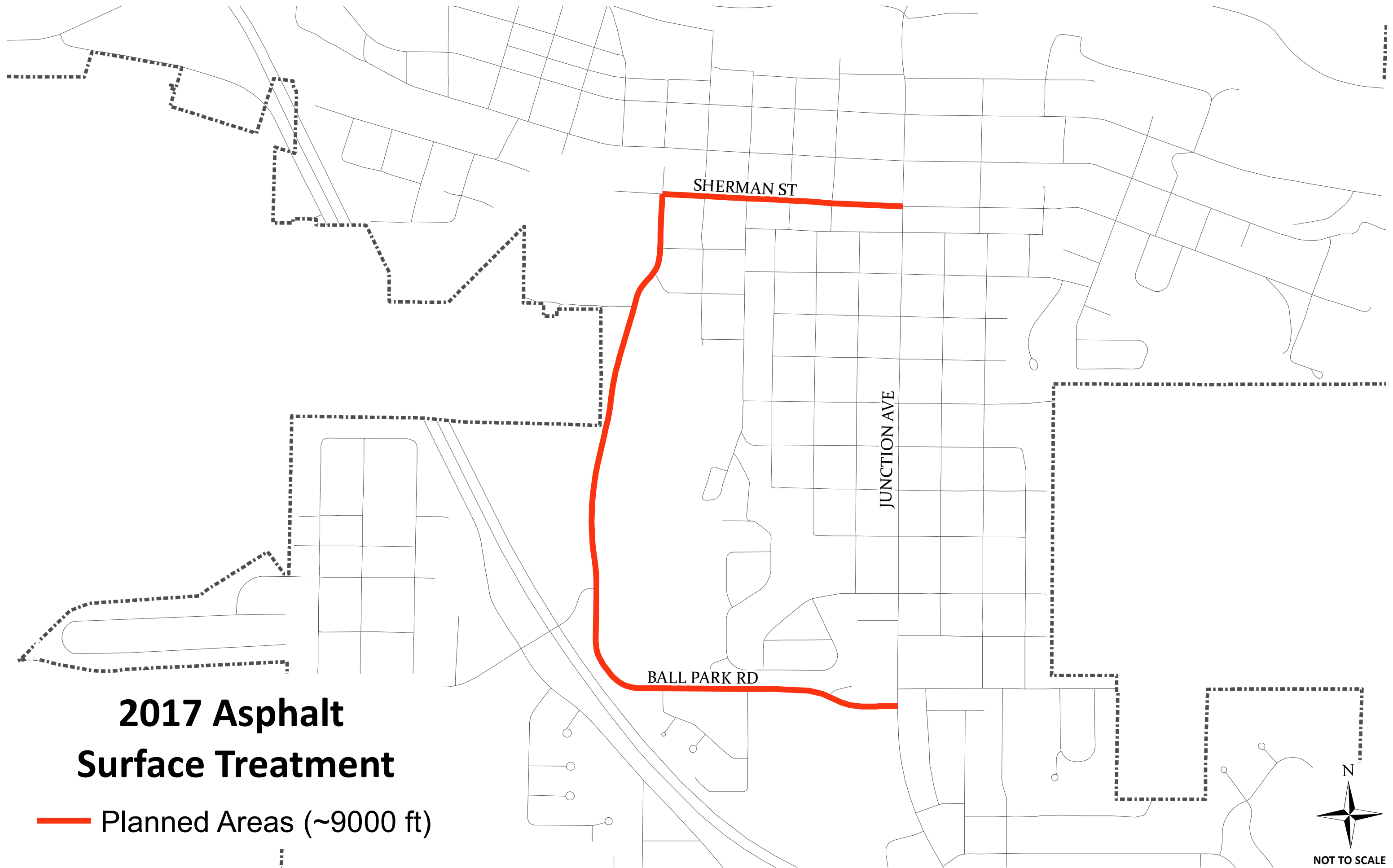
The accepted quantities of cover aggregate of the type specified will be paid for at the contract price per ton, complete, in place. Weigh tickets will not be considered valid if received more than forty-eight hours after placement

## CONTRACTOR'S RESPONSIBILITIES

- The Contractor shall ensure that the foreman on the project site and each subcontractor shall have a set of plans on site during any construction activities. The Owner will have the authority to stop construction activities if the Contractor does not have plans and reasonable supervision on site during any construction activities.
- **There will be no work allowed on the project from July 28<sup>th</sup> through August 9<sup>th</sup> due to the Sturgis Motorcycle Rally.**
- The Contractor shall complete the asphalt surface treatment by October 1, 2014.
- Work activities shall be conducted during daylight hours only. During nights, weekends and other nonworking hours, all materials and equipment shall be removed from the roadway and shall be stored at locations approved by the Owner.
- No work shall be allowed on Sundays or Holidays unless a written request is submitted to the Owner from the Contractor. This request must be received a minimum of 10 days prior to the requested day of work. This request must show justification of the need to work on a Sunday or Holiday and may or may not be approved by the Owner due to staffing and ability to perform adequate inspections on those requested days. Approval or rejection of the requested work day shall be in written format and submitted to the Contractor from the Owner within 3 days of receipt of the initial request.
- Asphalt sprayed on roadway appurtenances or adjacent private landowner possessions shall be satisfactorily cleaned off by the Contractor.
- The Contractor shall furnish any flagging required. Only SDDOT certified flaggers shall be allowed. A ticket showing their name, certification number and the number of hours flagging shall be supplied by the Contractor to the Owner, **daily**.
- The Contractor shall furnish a rates checker that will be responsible for checking asphalt surface treatment and mineral aggregate rates. The Contractor shall be responsible for placement of material at the correct rate unless otherwise directed by the Owner. All daily tickets and a summary by item shall be given to the Owner no later than the following morning. Excess material will not be paid for. All costs for providing the Contractor furnished checker shall be incidental to other bid items.
- **It shall be the Contractor's responsibility to notify the City at least 10 days in advance of when they plan to begin work.**

## HAUL ROADS

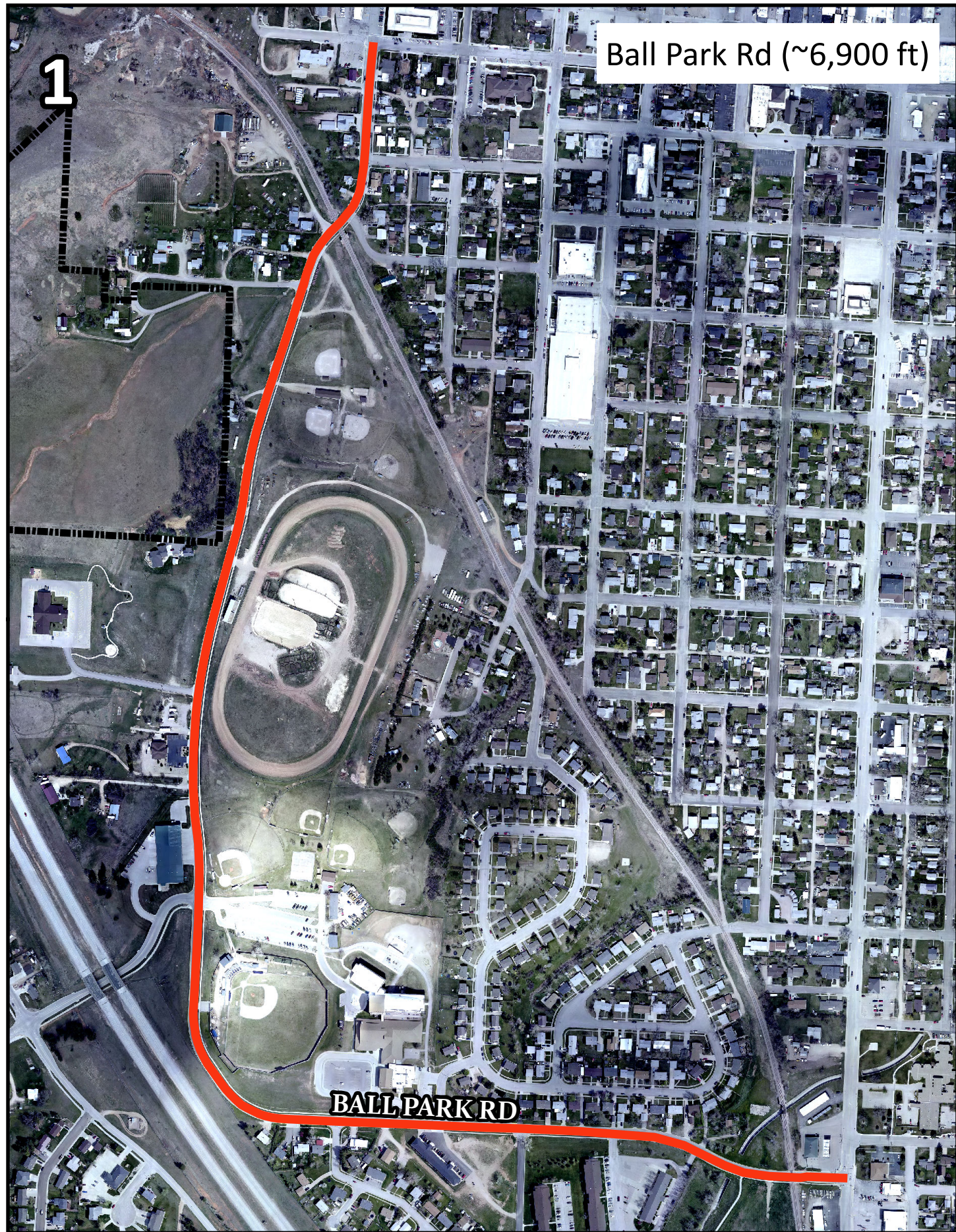
The Contractor shall be responsible for any haul roads used to transport material to the project site. The City will not participate in the cost of restoration of any haul roads used by the Contractor.



# 2017 Asphalt Surface Treatment

— Planned Areas (~9000 ft)

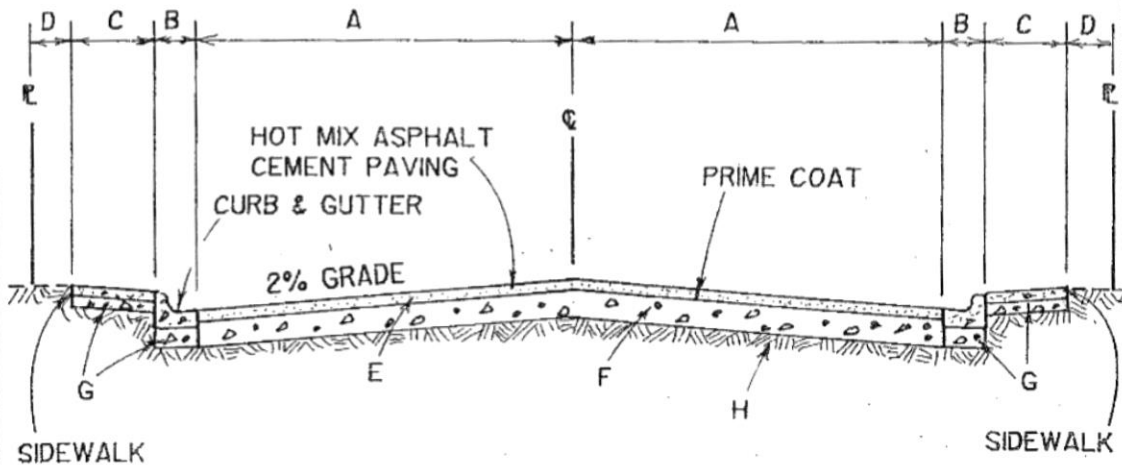




NOT TO SCALE

## TYPICAL STREET SECTION DETAIL

THIS TYPICAL STREET DETAIL REPRESENTS THE MINIMUM STANDARDS FOR A STURGIS CITY STREET. ALL STREETS WILL BE DESIGNED IN ACCORDANCE WITH ACCEPTED ENGINEERING DESIGN PROCEDURES AND SHALL BE APPROVED BY THE CITY ENGINEER.



- A WIDTH VARIES DEPENDING ON STREET CLASSIFICATION, MIN. 18'  
FOR A "RESIDENTIAL" STREET
- B CONCRETE CURB & GUTTER, 32"
- C CONCRETE SIDEWALK, MIN. 5' IF SIDEWALK IS ON BACK OF CURB,  
MIN. 4' IF A BOULEVARD IS PLACED BETWEEN TO SIDEWALK AND  
THE BACK OF THE CURB
- D VARIES DEPENDING ON R-O-W WIDTH AND STREET CLASSIFICATION
- E HOT MIX ASPHALT CEMENT PAVEMENT, 3" MIN.
- F 1" CRUSHED AGGREGATE BASE COURSE, 6" MIN.
- G 1" CRUSHED AGGREGATE BASE COURSE, 4" MIN.
- H MIN. OF 12" OF COMPACTED SUBGRADE