October 23, 2019

TO THE PROSPECTIVE BIDDER:

RE: WRA Eastside Interceptor, Phase 27, Segment 4A
Activity ID: 07-2020-003

We are issuing Addendum No. 1 on the above-referenced project. This Addendum No. 1 modifies, supplements, or replaces information contained in the contract documents. This addendum is hereby made a part of the contract documents.

Each bidder shall acknowledge receipt of each addendum in its proposal in order to have its bid read and considered. Acknowledgment of the receipt of each addendum shall be made by inserting the number of each addendum in the appropriate blank provided for such acknowledgment in the proposal.

The original proposal shall be used to bid this project.

The current bidders list is available on our web page: https://www.dsm.city/ProjectBidInfo

If you have any questions regarding this Addendum No. 1, please contact the Project Manager, Nicholas Carter at 515-323-8135.

Sincerely,

[Signature]

Steven L. Naber
City Engineer

Attach.
ADDENDUM NO. 1
TO THE
BIDDING DOCUMENTS FOR THE DES MOINES METROPOLITAN
WASTEWATER RECLAMATION AUTHORITY
WRA EASTSIDE INTERCEPTOR, PHASE 27, SEGMENT 4A
ACTIVITY ID NO. 07-2020-003

Date: October 23, 2019

TO ALL BIDDERS BIDDING ON THE ABOVE PROJECT: All Bidders submitting a Bid on
the above Contract shall carefully read this addendum and give it consideration in the preparation
of their Bid.

1.0 **SCOPE.** This Addendum No. 1 consists of revisions to the Front-End Documents under
Item 3.0 and revisions to the Special Provision under Item 4.0.

2.0 The following are revisions to the Plans:

None.

3.0 The following are revisions to the Front-End Documents:

1. **REVISED “WRA SUPPLEMENTAL SPECIFICATIONS TO SUDAS, 2019
EDITION (OCTOBER 15, 2019)” AND A REVISED “DOCUMENT LIST IN
CONTRACT” TO REFLECT THE REVISED “WRA SUPPLEMENTAL
SPECIFICATIONS TO SUDAS, 2019 EDITION (OCTOBER 15, 2019)”**

Attached herein are revised “WRA Supplemental Specifications to SUDAS, 2019 Edition
(October 15, 2019)” which shall replace said “WRA Supplemental Specifications to
SUDAS, 2019 Edition (June 18, 2019)”. Also attached herein is “Document List in
Contract, Revised per Addendum No. 1” which shall replace the said “Document List in
Contract” that was included with the original contract documents, which will be inserted
in the final contract.

4.0 The following are revisions to the Special Provision:

**Technical Specifications:**

In Special Provision on Technical Specifications, Page 14 under 9. Trenchless
Installation (Tunneling) delete 9. Trenchless Installation (Tunneling) and replace as
follows:

9. Trenchless Installation (Tunneling)
9.1 Install sewer in trenchless installation (tunneling) in accordance with the requirements of the Standard Specifications and the provisions of this section of the Special Provision on Technical Specifications.

9.2 Project involves trenchless installation (tunneling) of Tunnel No. 1 under utilities at E 20th and Cleveland Avenue and Tunnel No. 2 involving the crossing of the Union Pacific Railroad along E Cleveland Avenue between E 20th Street and Wayne Street.

9.3 Casing pipe required for Tunnel No. 2. Casing pipe recommended for Tunnel No. 1. WRA will approve tunneling procedure for Tunnel No. 1 without casing pipe if Contractor can provide assurance of successful completion of tunnel without casing pipe.

9.4 Contractor may use either HOBA S jacking pipe or steel casing. Contractor must notify WRA of casing material and size before requesting WRA to submit railroad notification for Tunnel No. 2. Casing pipe thickness must meet requirements of ARRA and Union Pacific Railroad.

9.5 Contractor responsible to select method and manner of installation of Tunnel No. 1 and Tunnel No. 2.

9.5.1 Wet or hydraulic tunneling procedures not allowed.

9.5.2 Directional boring not allowed.

9.5.3 Tunnel procedure must be capable of construction through sand and non-sand material based on the anticipated conditions as shown in Supplemental Boring No. 1, Supplemental Boring No. 2 and Supplemental Boring No. 3, including groundwater conditions. Contractor must select tunneling procedure and equipment capable of managing the encountering of sand at various locations within the tunnel.

9.6 Supplemental Borings 1, 2 and 3 provide best information on soil borings and type of material and elevations of material to be encountered. WRA makes no assurance with respect to the materials that will be encountered. Contractor responsible to select method of construction capable of successful completion through material encountered even though it may vary from that shown in soil borings.

9.7 Contractor responsible to develop and implement a dewatering plan as required for tunneling operation. Dewatering is incidental to construction as provided in Standard Specifications.

Addendum No. 1

WRA Eastside Interceptor
Phase 27, Segment 4A
Activity ID No. 07-2020-003

Page 2 of 4
9.8 Based on the anticipated groundwater conditions Contractor responsible to install dewatering wells as required to dewater sand as anticipated based on soil borings.

9.9 Dewatering wells must be located outside of the right-of-way of the Union Pacific Railroad.

9.9.1 If Contractor wishes to install dewatering wells within the railroad right-of-way Contractor responsible to arrange for appropriate rights of entry to railroad property.

9.9.2 WRA understands there may be interest in installation of horizontal dewatering wells that would extend under the railroad right-of-way. WRA will not object to the installation of horizontal dewatering wells that are constructed from outside of the right-of-way that extent to within the right-of-way. However, Contractor is responsible for any required approvals of railroad.

9.10 While the WRA does not have exact knowledge of the sand formations experience in the general area indicates the sand shown in the borings is most likely large sand pockets. In scheduling construction activities, Contractor must provide adequate time to dewater sand located in the area of the tunnel.

9.11 Tunneling method and equipment must be designed to accommodate cobbles and boulders while maintaining control of line and grade and preventing loss of soil at face of tunnel.

9.12 Boulders are defined as particles of rock that cannot be made to pass a 12-inch square opening when rotated in any orientation and that stop progress of normal tunneling operations and requires special efforts to remove from tunnel face.

9.13 Cobbles are defined as particles of rock that will pass a 12-inch square opening and be retained on a 3-inch U.S. Standard sieve.

9.14 No price adjustment will be made for the rate of tunnel production, dewatering of the removal of cobbles, boulders of any other material except as provided for in allowance for boulders.

9.15 Unit price for pipe tunnelled in place includes all equipment, labor and materials to construct steel casing pipe with carrier pipe by tunneling or jacking steel casing pipe in place. Unit price includes excavation, construction of tunneling and receiving pits, temporary support of existing

Addendum No. 1
utilities, sheeting and shoring of tunneling pits through ground surface, dewatering, tunneling, chemical grouting for soil stabilization, removal and disposal of tunnel excavation, furnishing and installing steel casing pipe, pressure grouting, furnishing and installing carrier pipe, furnishing and installing grout of annular space, placing and compacting backfill in tunnel pits requires carrier pipe testing and associated work. Include cost for equipment, labor and materials necessary to remove boulders as shown in the following table. Measurement for payment will be in linear feet along centerline of casing pipe tunneled in place from face of tunnel to face of tunnel installed to line and grade shown on plans within specified tolerances. Length of tunneling greater than indicated on plans will not be paid for as tunneling without prior to written authorization by Owner.

9.16 Anticipated quantity of boulders for each tunnel:

<table>
<thead>
<tr>
<th>Tunnel</th>
<th>Boulders</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>6</td>
</tr>
</tbody>
</table>

As provided no separate compensation will be provided for the anticipated number of boulders in each tunnel.

9.17 Unit price identified as allowance (Ea.) is a fixed $3,000 per boulder and includes all equipment, labor and materials necessary to removal boulders in tunnel excavations in excess of the quantity of boulders included in the bid item for each tunnel. Measurement for payment will be made for each boulder in excess of the anticipated quantity as measured and documented in the field. Maximum payment under this bid item is for 4 boulders, or $12,000. Handling of boulders encountered in excess of anticipated quantity, plus maximum allowance for boulders is incidental to tunnel construction.

In Special Provision on Technical Specifications, Page 31 under 41. Railroad Crossing, add the following to the end of section 41.9:

"Contractor must provide to the WRA verification of obtaining Railroad Protective Liability Insurance. Verification must be in the form of a copy of the policy, if available, or correspondence from the agency providing the policy. Correspondence form insurance provider must clearly state that the insurance has been obtained and is active."

END OF ADDENDUM NO. 1
ENGINEERING DEPARTMENT  
CITY OF DES MOINES, IOWA  

WRA Eastside Interceptor, Phase 27, Segment 4A  

Activity ID 07-2020-003  

The following documents are part of this contract:  

Document  
Instructions to Bidders  
Official Publications  
Proposal  
Bid Bond  
Contract  
Performance, Payment and Maintenance Bond  
Addenda:  

Special Provisions:  
Bidding Requirements  
Contractual Requirements  
SRF Required Front-End Specifications  
Technical Specifications  
Supplemental Specifications:  
General Supplemental Specifications to SUDAS, 2019 Edition  
WRA General Supplemental Specifications to SUDAS, 2019 Edition  

PROJECT ENGINEER:  Nicholas F. Carter, P.E.  

Phone Number:  (515) 323-8135
This project will be constructed in accordance with the SUDAS Standard Specifications, 2019 Edition, which were adopted by the Des Moines Metropolitan Wastewater Reclamation Authority on October 15, 2019 by Resolution No. 19-91, as amended by the City of Des Moines General Supplemental Specifications to the SUDAS Standard Specifications, 2019 Edition, effective April 22, 2019, by the City of Des Moines, Iowa, and as further amended by these WRA General Supplemental Specifications.


1020, 1.04 EXAMINATION OF THE CONTRACT DOCUMENTS AND SITE OF WORK: Delete A. and E. in their entirety and replace with the following A. and E:

A. By submission of a proposal on the work, the bidder represents that it has carefully examined the site of the proposed work; the plans, specifications, and all other Contract Documents; and that the bidder is fully informed concerning the requirements of the contract, the physical conditions to be encountered in the work, and the character, quality, and the quantity of work to be performed, as well as materials to be furnished. The Contractor will not be entitled to additional compensation if it subsequently finds that conditions require methods or equipment other than that anticipated by the Contractor in making its proposal.

(Note: Subsections B., C., and D. of 1020, 1.04 shall remain as-is without any revision)

E. The Jurisdiction does not warrant, impliedly or explicitly, the nature of the work, the conditions that will be encountered by the bidder, the adequacy of the Contract Documents for the Contractor to perform the work, or the conditions or structures to be encountered under any surface. Any such data supplied on the plans or other Contract Documents, or interpretation thereof by the Engineer, are merely for the convenience of the prospective bidders, who are to rely upon their own explorations of latent or subsurface site conditions, before completing and filing their proposal.

SECTION 1040 – SCOPE OF WORK

1040, 1.06 INCREASE OR DECREASE OF WORK: Delete A. and B. in their entirety and replace with the following new A:
A. The Jurisdiction reserves the right to make such alterations in the plans or in the quantities of Work as may be considered necessary. Such alterations shall be in writing by the Engineer and shall not be considered as a waiver of any conditions of the Contract Documents or to invalidate any of the provisions thereof.

1040, 1.07 CHANGE ORDERS, B. Written Orders: Delete the formal approval definition as added by the City of Des Moines General Supplemental Specifications and add the following new WRA formal approval definition:

Formal approval by the Jurisdiction shall be defined as follows:

The WRA Director and the Engineer have authority to approve change orders to contract documents in an amount up to $10,000 or 10% of the original contract price, or such other contingency amount or percentage established by the WRA Board, whichever is greater; provided that any change order in excess of $100,000 shall require approval by the WRA Board. Change orders shall be approved prior to the payment of the work provided for under the change order.

1040, 1.08 SITE CONDITIONS: Delete 1.08 in its entirety and replace with the following new A:

A. The Contractor is required by Section 1020 1.04 Examination of the Contract Documents and Site of Work to make reasonable investigation and examination to determine latent and subsurface conditions at the site of the work prior to preparing its proposal. The Jurisdiction makes no guarantee of any conditions, latent or subsurface, at the site of the work. The Jurisdiction shall not be obligated to make any payments to Contractor by reason of any latent or subsurface conditions.

1040, 1.09 CHANGED SITE CONDITIONS: Delete 1.09 in its entirety, and also delete in its entirety the revision made to 1.09 under the City of Des Moines General Supplemental Specifications.

1040, 1.10 DISPUTED CLAIMS FOR EXTRA COMPENSATION: Delete 1.10 in its entirety, and also delete in its entirety the revision made to 1040, 1.10 under the City of Des Moines General Supplemental Specifications, and replace with the following:

A. Basis of Claim for Extra Compensation:

1. In any case where the Contractor believes extra compensation is due for work or material beyond the scope of the Work under the contract and not ordered by the Engineer as Extra Work as defined in Section 1010 1.03 herein, the Contractor shall provide written notice to the Engineer, as set forth herein, of its intention to make claim for such extra compensation within thirty (30) days of discovering the circumstances regarding the claim and before beginning the work on which the claim is based (hereinafter referred to as a “Claim”).
a. For claims greater than $50,000 the Contractor shall notify the Engineer and WRA Director by written notice either (i) personally delivered, (ii) sent by certified mail, return receipt requested, or (iii) delivered by a nationally recognized prepaid overnight courier service (receipt requested) to the addresses below:

**Engineer:**

City of Des Moines  
Engineering Department  
400 Robert D. Ray Drive  
Des Moines, Iowa 50309-1891  
Attention: City Engineer

**WRA Director:**

Des Moines Metropolitan Wastewater Reclamation Authority  
3000 Vandalia Road  
Des Moines, Iowa 50317  
Attention: WRA Director

Under no circumstances will an email, text message, verbal communication or any other informal communication, be considered acceptable or satisfactory notice required by this section.

The written notice shall:
1) Expressly state that it is a request for a contract change under Section 1040, 1.10
2) Expressly state the reason the Contractor believes extra compensation is due;
3) Identify the underlying work or material that Contractor claims is beyond the scope of the Work under the contract and not ordered by the Engineer as Extra Work as defined in Section 1010,1.03;
4) Identify any work that will be impacted.

b. For claims less than $50,000 the Contractor shall notify the Project Engineer by written notice sent as set forth above or sent by email providing the same detail as identified in a. 1) through 4) above. Under no circumstances will a text message, verbal communication or any other informal communication be considered acceptable or satisfactory written notice required by this section.

The Contractor shall not proceed with that work until the Contractor and the Jurisdiction have executed a change order with respect to the Claim. The Contractor shall have no right to submit a Claim for any matter which is exclusively reserved to authority of the Engineer under the Contract Documents.

2. The Jurisdiction shall not be responsible for damages attributable to the performance, nonperformance, or delay, of any other contractor, governmental agency, utility agency, firm, corporation, or individual
authorized to do work on the project, except if such damages result from negligence on the part of the Jurisdiction, its Engineer, or any of its officers or employees.

3. For any Claim, if such written notification is not given, or if after such written notification is given, the Engineer is not allowed facilities for keeping strict account of actual costs as defined for force-account construction, the Contractor thereby agrees to waive the Claim for extra compensation for such work. Such written notice by the Contractor, and the fact the Engineer has kept account of the cost as aforesaid, shall not be construed as establishing the validity of the Claim.

4. The Claim, when filed, shall be in writing and in sufficient detail to permit auditing and an evaluation by the Jurisdiction. The Claim shall be supported by such documentary evidence as the Contractor has available and shall be verified by affidavit of the Contractor or other person having knowledge of the facts.

B. Presentation and Consideration of Claim: If the Contractor wishes an opportunity to present its Claim in person, the Claim shall be accompanied by a written request to do so. Where the Contractor asks an opportunity to present its Claim in person, the Jurisdiction, within thirty (30) calendar days of the filing of the Claim, shall fix a time and place for a meeting between the Contractor and the Jurisdiction or its designated representatives or representative. The Jurisdiction shall, within a reasonable time after the filing of the Claim or the meeting above referred to, whichever is later, rule upon the validity of the Claim and notify the Contractor, in writing, of its ruling together with the reasons therefore. In case the Claim is found to be just, in whole or in part, it shall be allowed and paid to the extent so found.

C. Request for Claim Review: In the event a Contractor’s Claim as outlined in the above procedure in Sections 1040 1.10(A) and (B) has been disallowed, in whole or in part, the Contractor may, within thirty (30) calendar days from the date the ruling of the Jurisdiction is mailed, make a written request to the Jurisdiction that its Claim or Claims be submitted to a board of review. The written request shall be either (i) personally delivered, (ii) sent by certified mail, return receipt requested, or (iii) delivered by a nationally recognized prepaid overnight courier service (receipt requested) addressed as follows:

To the Engineer:

City of Des Moines
Engineering Department
400 Robert D. Ray Drive
Des Moines, Iowa 50309-1891
Attention: City Engineer
To the WRA Director:

Des Moines Metropolitan Wastewater Reclamation Authority
3000 Vandalia Road
Des Moines, Iowa 50317
Attention: WRA Director

The Jurisdiction shall decide if the matter is subject to further review and shall, within thirty (30) calendar days of the receipt of the request for review, grant or deny the request for review. The Jurisdiction’s decision shall be final. In the event the Contractor fails to make a timely written demand for review of its Claim as provided by this Section 1040 1.10(C), the decision of the Jurisdiction shall be deemed to be final and the Contractor shall have no right to pursue arbitration of its Claim.

D. Board of Review:

1. The Board shall have jurisdiction to pass upon questions involving compensation to the Contractor for work actually performed or materials furnished and upon claims for extra compensation that have not been allowed by the Jurisdiction. The Board’s jurisdiction shall not extend to matters exclusively reserved to the Engineer, to a determination of quality of workmanship or materials furnished, or to an interpretation of the intent of the Plans and Specifications except as to matters of compensation. Jurisdiction of the Board shall not extend to setting aside or modifying the terms or requirements of the contract.

2. Following the timely written demand for review of the Claim and the decision of the Jurisdiction to grant the request, a board of review shall be appointed to review the Claim. The board of review shall consist of three (3) members as follows: the WRA Director; the Engineer, or his designated representative; and a third person to be appointed by the WRA Director (hereinafter the “Board”).

3. The Board shall set a date for the Contactor to present its Claim for review within sixty (60) days of the date the Jurisdiction issued its decision granting the Contractor’s request for review. The presentation before the Board shall not be in accordance with the Iowa rules of civil procedure and the Contractor shall not have the right to conduct discovery or compel the testimony of witnesses as part of the presentation. The Contractor shall submit three (3) copies of a written Claim summary and all documents it considers to be relevant to its Claim at least fourteen (14) days prior to the date set for the presentation before the Board. The presentation before the Board is intended to be an informal process to allow the Contractor to further explain its Claim and why it believes it is entitled to additional compensation. The Board reserves the right to impose such rules as it deems reasonably necessary to allow for a fair and efficient presentation.

4. Following the presentation before the Board, the Board shall render a written decision regarding the Claim within ten (10) days of the presentation. In the event the Board renders a decision in favor of the
Contractor for some or all of the Claim, the Contractor and the Jurisdiction shall promptly proceed in good faith to prepare a change order consistent with the decision of the Board. If the Board denies the Claim, in part or in full, the Contractor’s sole and exclusive remedy is to demand binding arbitration of the Claim that has been denied subject to the procedure provided below.

E. Binding Arbitration:

1. For any Claim denied by the Board, the Jurisdiction shall have the sole and exclusive right to determine whether final resolution shall be through Binding Arbitration (the “Arbitration”) or litigation. The Contractor shall not have the right to pursue final resolution of any Claim that the Contractor did not submit to the Board. The Contractor must make a written demand for final resolution of the Claim upon the Jurisdiction within thirty (30) days of the date when the Board rendered its decision or it will be deemed to have waived this right and the decision of the Board will be final. The written demand shall be either (i) personally delivered, (ii) sent by certified mail, return receipt requested, or (iii) delivered by a nationally recognized prepaid overnight courier service (receipt requested) addressed as follows:

To the Engineer:

City of Des Moines
Engineering Department
400 Robert D. Ray Drive
Des Moines, IA 50309-1891
Attention: City Engineer

To the WRA Director:

Des Moines Metropolitan Wastewater Reclamation Authority
3000 Vandalia Road
Des Moines, Iowa 50317
Attention: WRA Director

The Jurisdiction shall notify the Contractor within thirty (30) days of the date of receiving the Contractor’s written demand for final resolution of the Claim, whether the Jurisdiction will elect to use binding arbitration or litigation to reach a final resolution of the Claim. The decision to pursue binding arbitration or litigation, shall be the sole and exclusive decision of the Jurisdiction. The decision on whether to pursue binding arbitration or litigation is final.

1. Arbitration

(a) If the Jurisdiction elects to use binding arbitration for final resolution of the Claim the sole and exclusive remedy for resolution of the Claim shall be binding arbitration. The Arbitration shall be submitted to a single arbitrator as is mutually agreed upon by the
Contractor and Jurisdiction. If the Contractor and Jurisdiction cannot agree upon a single arbitrator within twenty-one (21) days of the date of the Contractor’s demand for Arbitration, the Arbitration shall be submitted to a three (3) member panel appointed as follows: the Contractor shall appoint one arbitrator; the Jurisdiction shall appoint one arbitrator; and the third arbitrator shall be chosen by the first two appointed arbitrators (for the sake of convenience, the arbitrator, or arbitrators as the case may be, shall be referred to hereinafter as the “Arbitrator”). The parties agree to work toward appointment of a three (3) member Arbitration panel within twenty-one (21) days after not being able to agree on a single arbitrator. The Arbitration shall be conducted in general accord with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. The parties reserve the right to alter and amend the rules for the Arbitration as they may mutually agree in writing.

(b) The Arbitrator shall have jurisdiction to pass upon questions involving compensation to the Contractor for work actually performed or materials furnished and upon claims for extra compensation that have not been allowed by the Jurisdiction. The Arbitrator’s jurisdiction shall not extend to matters exclusively reserved to the Engineer, to a determination of quality of workmanship or materials furnished, or to an interpretation of the intent of the Plans and Specifications, except as to matters of compensation. Jurisdiction of the Arbitrator shall not extend to setting aside or modifying the terms or requirements of the contract.

(c) Subject to agreement of the parties and the Arbitrator, the parties shall work in good faith to schedule the Arbitration and allow for the decision of the Arbitrator within two hundred forty (240) days after appointment of the Arbitrator.

(d) The Arbitrator shall render a written decision within twenty (20) days after the Claim has been fully submitted. For Arbitrations before more than one arbitrator, the decision of a majority of the panel shall govern. The Arbitrator’s decision shall provide a basis for the findings and legal conclusions and shall determine how the cost of the proceedings shall be borne by the parties.

(e) The decision of the Arbitrator shall be binding and final. There shall be no further appeal or judicial review, except under the limited circumstances as allowed by Iowa law.

2. Litigation. If the Jurisdiction elects not to use arbitration as the means to reach final resolution of the claim, then the sole and exclusive remedy for final resolution of the Claim shall be litigation which must be brought in Iowa District Court in and for the County where the Jurisdiction is located or in the United States District Court in and for the District where the Jurisdiction is located.
SECTION 1050 – CONTROL OF WORK

1050, 1.01 AUTHORITY OF THE ENGINEER: Delete A., B., and C. in their entirety and replace with the following A., B., and C., and add the following new E regarding survey, inspection, and testing:

A. The work included in the contract is to be done under the direct supervision and to the complete satisfaction of the Engineer, and the decision of the Engineer as to the true construction and meaning of the Contract Documents, plans, specifications, estimates, and as to all questions arising as to proper performance of the work, shall be final.

B. The Engineer shall determine the unit quantities and the classification of all work done and materials furnished under the provisions of the Contract Documents, and the Engineer's determination thereof shall be final.

C. The Engineer shall decide any and all questions which may arise as to the quality or acceptability of materials furnished and work performed, as to the rate of progress of the work, including cleanup and restoration, as to acceptable fulfillment and performance of the contract on the part of the Contractor, and as to compensation. The decision of the Engineer in such matters shall be final.

(Note: Subsection D. of 1050, 1.01 shall remain as-is without any revision)

E. The Jurisdiction will provide construction staking, on-site inspection, and materials, compaction, and other field testing unless otherwise indicated on the plans or stated in the special provision.

SECTION 1070 – LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

1070, 1.12, DISPUTE RESOLUTION AND CONSENT TO JURISDICTION OF IOWA DISTRICT COURT OR FEDERAL DISTRICT COURT IN IOWA: Delete 1.12 in its entirety and also delete in its entirety the revision made to 1070, 1.12 under the City of Des Moines General Supplemental Specifications and replace with the following new 1.12:

1070, 1.12 DISPUTE RESOLUTION AND CONSENT TO JURISDICTION OF IOWA DISTRICT COURT OR FEDERAL DISTRICT COURT IN IOWA

A. The Contractor agrees any claims, disputes, causes of action that accrue to it, or which by subrogation or assignment accrue to its sureties or insurers, arising out of or connected with this contact, and that the Jurisdiction has determined in writing is not subject to Section 1040, 1.10, shall be resolved by arbitration or litigation as elected by the Jurisdiction. As to any such causes of action, Contractor shall provide written notice to Jurisdiction requesting that Jurisdiction make its election as to whether the dispute shall be settled by arbitration or litigation. The written notice shall be either (i) personally delivered, (ii) sent by certified mail, return receipt requested, or (iii) delivered by a nationally recognized prepaid overnight courier service (receipt requested) addressed as follows:
Jurisdiction shall notify Contractor in writing as to its election within thirty (30) days of receipt of Contractor’s written notice requesting a determination by Jurisdiction.

1. Arbitration

(a) If the Jurisdiction elects to use binding arbitration for final resolution, the sole and exclusive remedy for final resolution of the dispute shall be binding arbitration (the “Arbitration”). The Arbitration shall be submitted to a single arbitrator as is mutually agreed upon by the Contractor and Jurisdiction. If the Contractor and Jurisdiction cannot agree upon a single arbitrator within twenty-one (21) days of the date of the Jurisdiction’s notification to the Contractor of the Jurisdiction’s decision to pursue binding arbitration, the Arbitration shall be submitted to a three (3) member panel appointed as follows: the Contractor shall appoint one arbitrator; the Jurisdiction shall appoint one arbitrator; and the third arbitrator shall be chosen by the first two appointed arbitrators (for the sake of convenience, the arbitrator, or arbitrators as the case may be, shall be referred to hereinafter as the “Arbitrator”). The parties agree to work toward appointment of a three (3) member Arbitration panel within twenty-one (21) days after not being able to agree on a single arbitrator. The Arbitration shall be conducted in general accord with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. The parties reserve the right to alter and amend the rules for the Arbitration as they may mutually agree in writing.

(b) Jurisdiction of the Arbitrator shall not extend to setting aside or modifying the terms or requirements of the contract.

(c) Subject to agreement of the parties and the Arbitrator, the parties shall work in good faith to schedule the Arbitration and allow for the decision of the Arbitrator within two hundred forty (240) days after appointment of the Arbitrator.

(d) The Arbitrator shall render a written decision within twenty (20) days after the matter has been fully submitted. For Arbitrations before more than one arbitrator, the decision of a majority of the panel shall govern. The Arbitrator’s decision shall provide a basis for the findings and legal conclusions and shall determine how the cost of the proceedings shall be borne by the parties.
(e) The decision of the Arbitrator shall be binding and final. There shall be no further appeal or judicial review, except under the limited circumstances as allowed by Iowa law.

2. Litigation. If the Jurisdiction elects not to use arbitration as the means to reach final resolution of the claim or fails to notify Contractor in writing within thirty (30) days of its election, then the sole and exclusive remedy for final resolution of the Claim shall be litigation which must be brought in Iowa District Court in and for the County where the Jurisdiction is located or in the United Stated District Court in and for the District where the Jurisdiction is located.

B. Contractor further consents that it will require its subrogees and assigns to enter into an agreement to comply with the terms of Section, 1.12, and consent to the jurisdiction of either the Iowa District Court in and for the County where the Jurisdiction is located or the United States District Court in and for the District where the Jurisdiction is located, as to any causes of action brought against it arising out of this contract or any work performed under it by Contractor or its subcontractors, and further agrees, on behalf of itself, its subrogees and assigns, to waive any and all objections to the jurisdiction of said court as to any such cause of action. Contractor shall make such consent a condition of the retention of subrogees and assigns.

1070, 2.03 WORK AREA: Add the following new C. regarding encroachment beyond the construction limits:

C. Encroachment Beyond the Construction Limits:
1. The Contractor may negotiate with individual property owners for approval to use areas beyond the designated construction limits as sown in the Contract Documents. Any such negotiated agreement with individual property owners shall be in writing and designate the rate of payment and the basis of calculating the area on which payment shall be made. A copy of any written agreement shall be submitted to the Jurisdiction.

2. Prior to final acceptance the Jurisdiction will contact each property owner for which there is a written agreement. The Jurisdiction may, at its discretion, delay final acceptance of the project until all property owners with a written agreement indicate to the Jurisdiction that the Contractor has satisfied the terms and conditions of the agreement.

3. If the Contractor’s activities extend beyond the designated construction limits and there is no written agreement, such activities shall be considered an encroachment. In the event of an encroachment, the Jurisdiction will notify the Contractor to reach agreement with the affected property owner regarding damages or compensation as the result of the encroachment. The Contractor will be provided a reasonable time to reach agreement.

4. In the event the Contractor is unable, or unwilling, to reach agreement with a property owner on which an encroachment by the Contractor occurred, the Jurisdiction will negotiate a settlement of compensation relating to the
encroachment including compensation for additional temporary easement, crop damages and other appropriate compensation. The Jurisdiction will make its best efforts to limit the payment for encroachment to a rate no greater than the original easement compensation rate.

5. In the event the Jurisdiction is required to compensate a property owner for an encroachment by the Contractor, the amount paid by the Jurisdiction to a property owner for resolution of an encroachment shall be deducted from the compensation due the Contractor.

6. The Jurisdiction will make available information on the rate of easement compensation for each property owner. Such information will be made available upon request during the bidding phase and during the construction phase of the project.

**1070, 3.02 INSURANCE REQUIREMENTS:** Add the following at the end of A:

For purposes under 1070, 3.02 - 3.09 inclusive only, “Jurisdiction” shall be defined as “Des Moines Metropolitan Wastewater Reclamation Authority and the City of Des Moines”, and all references to “Jurisdiction” shall be replaced with “Des Moines Metropolitan Wastewater Reclamation Authority and the City of Des Moines”.

**SECTION 3010 – TRENCH AND BACKFILL**

**3010, 1.08 MEASUREMENT FOR PAYMENT, B. ROCK EXCAVATION:** Delete in its entirety.

**3010, 1.08 MEASUREMENT FOR PAYMENT, C. TRENCH FOUNDATION:** Add new subsections 3010, 1.08 (C)(4)(a) and (b) as follows:

4. Stabilizing material over-excavation and trench bottom stabilization:

   a. Stabilizing material will be authorized only if the Contractor provides a dewatering operation in accordance with the requirements of Section 3010 3.05. Stabilizing material will not be authorized when only localized dewatering is used at the location of the pipe laying unless prior to such dewatering it is approved in writing by the Engineer.

   b. No adjustment of unit price for stabilizing material will be negotiated regardless of quantity of stabilizing material used on the project.

**3010, 2.01 MATERIALS EXCAVATED FROM A TRENCH, A. Standard Trench Excavation:** Delete in its entirety and replace with the following:

   A. **Standard Trench Excavation:** All materials excavated during trench excavation, except over-excavation.

**3010, 2.01 MATERIALS EXCAVATED FROM A TRENCH, B. Rock Excavation:** Delete B. Rock Excavation in its entirety.