

SECTION 40

SCOPE OF WORK

- 40-01 INTENT OF CONTRACT.** The intent of the contract is to provide for construction and completion, in every detail, of the work described. It is further intended that the Contractor shall furnish all labor, materials, equipment, tools, transportation, and supplies required to complete the work in accordance with the plans, specifications, and terms of the contract.
- 40-02 ALTERATION OF WORK AND QUANTITIES.** TxDOT reserves and shall have the right to make such alterations in the work as may be necessary or desirable to complete the work originally intended in an acceptable manner. Unless otherwise specified herein, the Engineer shall be and is hereby authorized to make such alterations in the work as may increase or decrease the originally awarded contract quantities, provided that the aggregate of such alterations does not change the total contract cost or the total cost of any major contract item by more than 25 percent (total cost being based on the unit prices and estimated quantities in the awarded contract). Alterations which do not exceed the 25 percent limitation shall not invalidate the contract nor release the surety, and the Contractor agrees to accept payment for such alterations as if the altered work had been a part of the original contract. These alterations which are for work within the general scope of the contract shall be covered by “Change Orders” issued by the Engineer. Change orders for altered work shall include extensions of contract time where, in the Engineer’s opinion, such extensions are commensurate with the amount and difficulty of added work.

Should the aggregate amount of altered work exceed the 25 percent limitation specified above, such excess altered work shall be covered by supplemental agreement. If TxDOT and the Contractor are unable to agree on a unit adjustment for any contract item that requires a supplemental agreement, TxDOT reserves the right to terminate the contract with respect to the item and make other arrangements for its completion.

For AIP contracts, all supplemental agreements shall be approved by TxDOT and shall include valid wage determinations of the U.S. Secretary of Labor when the amount of the supplemental agreement exceeds \$2,000. However, if the contractor elects to waive the limitations on work that increases or decreases the originally awarded contract or any major contract item by more than 25 percent, the supplemental agreement shall be subject to the same U.S. Secretary of Labor wage determination as was included in the originally awarded contract.

All supplemental agreements shall require consent of the Contractor's surety and separate performance and payment bonds.

- 40-03 OMITTED ITEMS.** The Engineer may, in TxDOT's best interest, omit from the work any contract item, except major contract items. Major contract items may be omitted by a supplemental agreement. Such omission of contract items shall not invalidate any other contract provision or requirement.

Should a contract item be omitted or otherwise ordered to be non-performed, the Contractor shall be paid for all work performed toward completion of such item prior to the date of the order to omit such item. Payment for work performed shall be in accordance with the subsection titled PAYMENT FOR OMITTED ITEMS of Section 90.

- 40-04 EXTRA WORK.** Should acceptable completion of the contract require the Contractor to perform an item of work for which no basis of payment has been provided in the original contract or previously issued change orders or supplemental agreements, the same shall be called Extra Work. Extra work that is within the general scope of the contract shall be covered by written change order. Change orders for such extra work shall contain agreed unit prices for performing the change order work in accordance with the requirements specified in the order, and shall contain any adjustment to the contract time that, in the Engineer's opinion, is necessary for completion of such extra work.

When determined by the Engineer to be in TxDOT's best interest, he may order the Contractor to proceed with extra work by force account as provided in the subsection titled PAYMENT FOR EXTRA AND FORCE ACCOUNT WORK of Section 90.

Extra work that is necessary for acceptable completion of the project, but is not within the general scope of the work covered by the original contract shall be covered by a Supplemental Agreement as herein before defined in the subsection titled SUPPLEMENTAL AGREEMENT of Section 10.

Any claim for payment of extra work that is not covered by written agreement (change order or supplemental agreement) shall be rejected by TxDOT.

- 40-05 DIFFERING SITE CONDITIONS.** During the progress of the work, differing subsurface or latent physical conditions may be encountered at the site. The two types of differing site conditions are defined as:

- those that differ materially from those indicated in the Contract and
- unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the Contract.

Notify the Engineer in writing when differing site conditions are encountered. Unless directed otherwise, suspend work on the affected items and leave the site undisturbed. The Engineer will investigate the conditions and determine whether differing site conditions exist. If the differing site conditions cause an increase or decrease in the cost or number of working days specified for the performance of the Contract, the Engineer will make adjustments, excluding the loss of anticipated profits, in accordance with the Contract. Additional compensation will be made only if the required written notice has been provided.

40-06 MAINTENANCE OF TRAFFIC. It is the explicit intention of the contract that the safety of aircraft, as well as the Contractor's equipment and personnel, is the most important consideration. It is understood and agreed that the Contractor shall provide for the free and unobstructed movement of aircraft in the air operations areas of the airport with respect to his own operations and the operations of all his subcontractors as specified in the subsection titled LIMITATION OF OPERATIONS of Section 80. It is further understood and agreed that the Contractor shall provide for the uninterrupted operation of visual and electronic signals (including power supplies thereto) used in the guidance of aircraft while operating to, from, and upon the airport as specified in the subsection titled CONTRACTOR'S RESPONSIBILITY FOR UTILITY SERVICE AND FACILITIES OF OTHERS in Section 70.

With respect to his own operations and the operations of all his subcontractors, the Contractor shall provide marking, lighting, and other acceptable means of identifying: personnel; equipment; vehicles; storage areas; and any work area or condition that may be hazardous to the operation of aircraft, fire-rescue equipment, or maintenance vehicles at the airport.

When the contract requires the maintenance of vehicular traffic on an existing road, street, or highway during the Contractor's performance of work that is otherwise provided for in the contract, plans, and specifications, the Contractor shall keep such road, street, or highway open to all traffic and shall provide such maintenance as may be required to accommodate traffic. The Contractor shall furnish erect, and maintain barricades, warning signs, flagmen, and other traffic control devices in reasonable conformity with the manual of Uniform Traffic Control Devices for Streets and Highways (published by the United States Government Printing Office), unless otherwise specified herein. The Contractor shall also construct and maintain in a safe condition any temporary connections necessary for ingress to and egress

from abutting property or intersecting roads, streets or highways. Unless otherwise specified herein, the Contractor will not be required to furnish snow removal for such existing road, street, or highway.

The Contractor shall make his own estimate of all labor, materials, equipment, and incidentals necessary for providing the maintenance of aircraft and vehicular traffic as specified in this subsection.

The cost of maintaining the aircraft and vehicular traffic specified in this subsection shall not be measured or paid for directly, but shall be included in the various contract items.

40-07 REMOVAL OF EXISTING STRUCTURES. All existing structures encountered within the established lines, grades, or grading sections shall be removed by the Contractor, unless such existing structures are otherwise specified to be relocated, adjusted up or down, salvaged, abandoned in place, reused in the work or to remain in place. The cost of removing such existing structures shall not be measured or paid for directly, but shall be included in the various contract items.

Should the Contractor encounter an existing structure (above or below ground) in the work for which the disposition is not indicated on the plans, the Engineer shall be notified prior to disturbing such structure. The disposition of existing structures so encountered shall be immediately determined by the Engineer in accordance with the provisions of the contract.

Except as provided in the subsection titled RIGHTS IN AND USE OF MATERIALS FOUND IN THE WORK of this section, it is intended that all existing materials or structures that may be encountered (within the lines, grades, or grading sections established for completion of the work) shall be utilized in the work as otherwise provided for in the contract and shall remain the property of TxDOT when so utilized in the work.

40-08 RIGHTS IN AND USE OF MATERIALS FOUND IN THE WORK. Should the Contractor encounter any material such as (but not restricted to) sand, stone, gravel, slag, or concrete slabs within the established lines, grades, or grading sections, the use of which is intended by the terms of the contract to be either embankment or waste, he may at his option either:

- a. Use such material in another contract item, providing such use is approved by the Engineer and is in conformance with the contract specifications applicable to such use; or,

- b. Remove such material from the site, upon written approval of the Engineer; or
- c. Use such material for his own temporary construction on site; or,
- d. Use such material as intended by the terms of the contract.

Should the Contractor wish to exercise option a., b., or c., he shall request the Engineer's approval in advance of such use.

Should the Engineer approve the Contractor's request to exercise option a., b., or c., the Contractor shall be paid for the excavation or removal of such material at the applicable contract price. The Contractor shall replace, at his own expense, such removed or excavated material with an agreed equal volume of material that is acceptable for use in constructing embankment, back-fills, or otherwise to the extent that such replacement material is needed to complete the contract work. The Contractor shall not be charged for his use of such material so used in the work or removed from the site.

Should the Engineer approve the Contractor's exercise of option a., the Contractor shall be paid, at the applicable contract price, for furnishing and installing such material in accordance with requirements of the contract item in which the material is used.

It is understood and agreed that the Contractor shall make no claim for delays by reason of his exercise of option a., b., or c.

The Contractor shall not excavate, remove, or otherwise disturb any material, structure, or part of a structure which is located outside the lines, grades, or grading sections established for the work, except where such excavation or removal is provided for in the contract, plans, or specifications.

40-09 FINAL CLEANING UP. Upon completion of the work and before acceptance and final payment will be made, the Contractor shall remove from the site all machinery, equipment, surplus and discarded materials, rubbish, temporary structures, and stumps or portions of trees. He shall cut all brush and woods within the limits indicated and shall leave the site in a neat and presentable condition. Material cleared from the site and deposited on adjacent property will not be considered as having been disposed of satisfactorily, unless the Contractor has obtained the written permission of such property owner.

END OF SECTION 40